

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 March 2014

Public Authority: Ofsted
Address: Aviation House
125 Kingsway
London
WC2B 6SE

Decision (including any steps ordered)

1. The complainant has requested information about serious incident notifications in a particular format. Ofsted said that it did not hold the information in the format requested.
2. The Commissioner considers that Ofsted was correct to confirm that it did not hold the requested information under section 1(1)(a) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires no steps to be taken.

Request and response

4. On 2 October 2013 the complainant requested information of the following description:

"Can I please have an updated copy of the serious incident notifications in the same form as I have had it recently. If this isn't clear please come back to me about this."
5. On 30 October 2013 Ofsted responded. It said that the information the complainant had requested was intended for future publication in Spring 2014 and was therefore exempt from disclosure under section 22 FOIA.
6. The complainant requested an internal review on 30 October 2013. Ofsted sent the outcome of its internal review on 11 December

2013. It said that the complainant had specifically requested the serious incident notifications in the format he had received them previously. It said that the work had not been undertaken to convert the raw data into the form the complainant had received this information in previously. It said therefore that at the time the request was made it did not hold the information the complainant had requested, only the raw data. It said that the complainant was able to make a separate request for the raw data. It suggested that if he were to make such a request, section 22 and section 31 FOIA would be likely to apply.

Scope of the case

7. The complainant contacted the Commissioner on 27 November 2013 to complain about the way her request for information had been handled.
8. The Commissioner has considered whether or not Ofsted was correct to confirm that it did not hold the requested information under section 1(1)(a) FOIA.

Reasons for decision

9. Section 1(1)(a) of FOIA states that, "Any person making a request for information to a public authority is entitled – to be informed in writing by the public authority whether it holds information of the description specified in the request".
10. Ofsted explained that the complainant made regular requests to Ofsted on this matter from around 2009 to 2012. It said that the "form he has received it previously" refers to the fact that the information Ofsted sent was presented to the complainant in spreadsheet form and, from around April 2010, only comprised 'validated data'. The information specifically requested by the complainant over this period of time is:

"Serious Incident Notifications following a child death and serious case reviews following a child death known to Ofsted"

The following fields of information related to each Serious Incident Notification (SIN) were also specified by the complainant in his request:

- Local Authority
- Looked after Child or Child in Care
- Child Death

- Date of Incident
 - Age at Incident
 - Date Notification Form Rcvd
 - SCR instigated
 - Date Ofsted informed of SCR to be instigated
11. Ofsted explained that it initially derives information about SINS from an online form completed by local authorities¹. It said that these forms are expected to be completed when local authorities become aware of a child death or a serious injury, in a range of particular circumstances (local authorities should also notify Ofsted of any decision to conduct a serious case review). It clarified that for the purposes of this case, this information should be referred to as the 'raw data' received by Ofsted. It explained that the key aspect is that these data represent the initial assessment of the circumstances of a child's death: at the earliest point public authorities become aware of it. It does not necessarily represent, nor may it eventually conform with, the outcome of any formal inquiry or investigation to confirm the actual causes and circumstances of each death.
12. It therefore said that the 'validated' version of this data is materially different to the raw data. It is a version of the information, which has been processed through checking and taking into account various further factors, which may occur after the submission of the raw data. These may include the outcome of a post mortem, coroner's inquest, police inquiry and any related criminal proceedings that have a bearing on legally resolving the actual cause/circumstances of each death.
13. Ofsted provided examples of how the refinement of the raw data may lead to this information changing. It explained that Ofsted may be notified of a death of a child who was the subject of a child protection plan. At the time, the cause of death will not be verified, and so there may be doubt as to whether it was accidental or not. A subsequent post mortem may then find that this death was due to natural causes. In such a case, the post mortem findings will be used during the validation process to identify the cause of death. Equally, it said that there may be

¹ <http://www.ofsted.gov.uk/sites/default/files/documents/other-forms-and-guides/n/Notification%20of%20serious%20childcare%20incident.pdf>

a case, for example, where a teenager has fallen to their death. Initially it may not be clear whether the teenager has made a deliberate decision to 'jump' or the death was accidental.

14. Ofsted confirmed therefore that the validated data is very likely to differ from the raw data, to the extent that the initial SIN received by Ofsted contains a series of assumptions that may well change as external investigations are made and their outcomes become known to Ofsted. Equally important is the fact that, as the circumstances surrounding a child's death become clearer, this may result in a SIN becoming declassified (where Ofsted determines that the SIN did not in the end meet the appropriate thresholds). Any such declassification will alter the overall number of child deaths finally recorded as SINS, which Ofsted understood to be the core aspect of the requested information. It also said that declassification also properly resolves any inconsistencies in the raw data that might arise from local authorities interpreting the thresholds for notification differently.
15. For the purposes of providing information to the public, clearly the distinction between the 'raw' and 'validated' data is crucial, as the raw data could be inaccurate and misleading to the public on what is a very serious matter. It is also important to highlight that, until the validation exercise is completed, Ofsted cannot predict in advance what aspects of the raw data could change. If the requested dataset remains incomplete as a whole, it does not believe any partially completed parts of it matches the current request.
16. Ofsted said that previous correspondence had established that the complainant's request was only for the 'validated' data as described above, in full (i.e. across England for each time period). It is the case that, in the past when the complainant was regularly requesting such data, Ofsted would specifically prepare it for him by completing any necessary validation work, in full and in advance, or to a pre-agreed timescale. It said that the complainant stopped making such requests at some point during 2012 and only recommenced his requests in October 2013. Because the requests had ceased for some time, and for other reasons, fully validated data was not available to Ofsted when this most recent request was received. Instead Ofsted had only just initiated the process of validating the most recent data, but this work was in its early stages, incomplete and only scheduled to be finished around 1 April 2014.
17. It concluded that at the time of the request, the information, in the validated form the complainant had previously received it, was not held.
18. Given the validated data was not held at the time of the request, only the raw data, and the fact that Ofsted had not completed the process of

validating the data, the Commissioner considers that on the balance of probabilities Ofsted was right to assert that the requested information was not then held.

Right of appeal

19. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

20. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Graham Smith
Deputy Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF