

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 September 2014

Public Authority: St Peter's Church of England Middle School

Address: Crimp Hill
Old Windsor
Windsor
Berkshire
SL4 2QY

Decision (including any steps ordered)

1. The complainant requested information from St Peter's Church of England Middle School ("the School") relating to School accounts, the payroll and numbers of teaching staff and pay rises received.
2. The School stated that to try and comply with the request would exceed the appropriate costs limit set by section 12(1) of the FOIA.
3. The Commissioner's decision is that the School has correctly applied section 12(1) to the request but that it committed some procedural breaches. There are no further steps to be taken.

Request and Response

4. On 15 December 2013 the complainant contacted the School and requested information relating to school accounts, the payroll and numbers of teaching staff and pay rises received. The wording of this request can be found in Appendix A.
5. On 24 January 2014 the School provided its response to this request. It advised that it was not able to comply with the FOIA request as it

estimated that compliance with the request would exceed the cost limit of £450 or 18 hours work.

6. On 25 January 2014 the complainant advised the School that they were not satisfied with this response and requested details of any complaints/review procedure the School may have. They also advised that they were prepared to refine the request if the School could provide advice and assistance as to how best to achieve this.
7. On 12 March 2014 the complainant contacted the School to express their concern that the request for advice and assistance had not been dealt with.
8. On the same date the complainant lodged a complaint with the Information Commissioner's Office stating that they were not satisfied with the lack of response received in respect of the request.
9. On 17 April 2014 the Information Commissioner's Office ("the ICO") wrote to the School to remind it of its obligations under the FOIA.
10. On 25 June 2014 the complainant advised the ICO that they had still not received any communication from the School and wished to pursue a complaint.
11. On 23 July 2014 the complainant contacted the Commissioner to advise that he was removing question 6 from the scope of his complaint.
12. On 5 August 2014 the School advised the complainant about its internal review process. It also advised that it was seeking to rely upon section 22 of the FOIA as a basis for not providing the information in relation to questions 1 and 2 of the request as it was intended to publish the information.

Scope of the case

13. On 6 August 2014 the complainant advised the Commissioner of the School's offer of an internal review.
14. On the same date the decision was taken to investigate the response of the School to this request without the need for the complainant to request an internal review of the response to his request dated 15 December 2013.
15. During the course of his investigations the School advised the Commissioner that it was no longer relying on section 22 of the FOIA in relation to questions 1 and 2 as it could not state when this information would be published.

16. The focus of the Commissioner's investigation has therefore been to determine whether the School's application of section 12(1) of the FOIA is correct in relation to questions 1-5 of the requests dated 13 December 2013.

Reasons for decision

17. Section 12(1) of the FOIA states:

"Section 1(1) does not oblige a public authority to comply with request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."

18. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Regulations") sets the appropriate limit at £450 for the public authority in question. Under the Regulations, a public authority may charge a maximum of £25 per hour for work undertaken to comply with a request. This equates to 18 hours work in accordance with the appropriate limit set out above.
19. A public authority is only required to provide a reasonable estimate or breakdown of costs and in putting together its estimate it can take the following processes into consideration:
- determining whether it holds the information;
 - locating the information, or a document which may contain the information;
 - retrieving the information, or a document which may contain the information; and
 - extracting the information from a document containing it.

Would the cost of compliance exceed the appropriate limit?

20. As is the practice in a case such as this, the Commissioner asked the School to confirm if the information is held and if so, to provide a detailed estimate of the time/cost taken to provide the information falling within the scope of this request.
21. In his assessment of whether the School has correctly relied upon section 12 of the FOIA, the Commissioner has considered the submissions provided by the School, as well as the refusal notice and other correspondence provided by the School to the complainant as well as the submissions by the complainant.
22. In response to his enquiries the School has provided the Commissioner with a detailed overview of the steps it has taken to establish whether the request fell within the costs limits prescribed. It confirmed that it

carried out an initial search for information before it was in a position to confirm that section 12 was applicable.

23. In relation to the questions it advised that electronic access was used to find the information requested. However, the reporting format of the management system used by the School did not allow for the information to be uploaded and saved as an Excel document. The School advised that to access, print and then type the information in a suitable format would take a considerable period of time.
24. The School advised that in respect of one year for part a of question 1 it took 30 minutes, for part b this took 45 minutes making a total of 1 hour 15 minutes for one year. To have collated the information for all years would therefore take 6 hours and 15 minutes.
25. In respect of question 2 the same problems were accounted and the total time required was 1 hour 15 minutes.
26. In respect of question 3 the School advised that this would require a mix of physical checking of hard copy files and downloading of information from the management tool. This was due to the fact that neither system produced the reports in a suitable format to be able to answer the request for information. The School advised that to collate the information for one member of staff still employed by the School would take 30 minutes and 45 minutes in respect of a member of staff who had left the School. The School estimated that the total time in respect of this question would amount to 10 hours and 45 minutes.
27. In respect of question 4 the School advised that physical checking and electronic recovery was required. As less staff were involved it estimated a total time of 6 hours and 15 minutes.
28. In respect of question 5 the School estimated two hours 30 minutes was required for checking and recovery based on estimates per check as identified in paragraph 26.
29. In total, and excluding the time originally provided to the Commissioner in respect of question 6, the School advised that it would require 26 hours and 50 minutes.
30. The School advised the Commissioner that because of the way in which the electronic management system worked it was not able to break down or format the information in a more acceptable way and that physical extraction from hard copy files was also required as well. For eg – the electronic management system advised whether a member of staff had had a pay rise but it was not possible to ascertain whether this was an incremental rise or as a result of a promotion.

31. The School explained to the Commissioner the limitations of the system that it had in use and about the difficulties it had in breaking down the data into the information that was requested. It explained that consideration was being given to the introduction of a different system at some stage in the future to make the information more accessible.
32. The Commissioner is satisfied that the School has now provided adequate explanations to demonstrate that it would exceed the appropriate limit to locate, retrieve and extract the requested information. Section 12(1) does therefore apply and the School is not required to comply with the request.

Section 16 – advice and assistance

33. Section 16 places a duty on public authorities to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made requests for information to it.
34. Under section 16(2) a public authority is considered to have met that duty if it follows the section 45 code of practice (the “code”). The code sets out what is expected from a public authority in terms of advice and assistance when a request is refused under section 12.¹

Paragraph 14 of the code states that where a public authority is not obliged to comply with a request because it would exceed the appropriate limit to do so, then it:

“...should consider providing an indication of what, if any, information could be provided within the cost ceiling. The authority should also consider advising the applicant that by reforming or refocussing their request, information may be able to be supplied for a lower, or no, fee.”

35. In its refusal notice the School did not provide a breakdown of costs or suggest to the complainant ways in which they could ‘narrow’ the request.
36. The complainant offered to refine the request on two occasions in January and March 2014 and removed question 6 from the scope of his request at a later stage once the Commissioner’s enquiries had commenced. Additionally, at the point at which the School did advise the complainant about their right to request an internal review of the

¹ <http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

response to their request, the School advised that it could not give advice as to how to break down the request further.

37. As part of its submissions to the Commissioner the School has provided information as to the difficulties that it encountered when initially dealing with this matter. It provided evidence that it had received several requests for information within a short space of time from other parties when it had had little experience of dealing with FOIA requests and was experiencing organisational difficulties.
38. It advised that the follow up correspondence in relation to the request was in a different name to that of the original request and that this had led to some confusion on the part of the School who had not linked the matters straightaway. Additionally that a further letter had been drafted to be sent to the complainant outlining his rights of appeal which had not been sent in error.
39. Whilst acknowledging the difficulties faced by the School at the relevant time, the Commissioner considers that the actions of the School do not satisfy the requirements of the Secretary of State's Code of Practice issued under section 45 of the Act, and therefore the School breached the duty at section 16 of the Act.

Section 17(7) – Internal Review

40. The Commissioner notes that although there was correspondence between the School and the complainant, the refusal notice of 24 January 2014 did not include an offer of an internal review of the decision or set out the right to complain to the ICO. The Commissioner notes that an internal review was only offered at a late stage at the beginning of August 2014.
41. As previously stated, the Commissioner is aware of the organisational difficulties experienced by the School at the relevant time. However, the Commissioner finds that the School did not meet its obligations under section 17(7) of the FOIA act.

Conclusion

42. The Commissioner considers that the School was correct in its approach in these circumstances in so far as it relates to the application of section 12 of the FOIA. The School has breached its obligations in relation to section 16 and section 17(7) of the FOIA. However, no further action is required on the part of the School.

Other Matters

43. The Commissioner notes that as a result of this investigation the School is revising its procedures in relation to both FOIA and data protection matters with a view to publishing more information on its website, implementing tighter procedures in relation to processing FOIA requests and reviewing and updating staff training.

Right of Appeal

44. 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: 0870 739 5836

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

45. 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.
46. 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

**Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Appendix A

I would like to ask six questions under the Freedom of Information Act 2000 ("the Act"). These questions all relate to St Peter's Church of England Middle School in Old Windsor. For each question, only information releases that would be in breach of the Data Protection Act 1998 (exempted under section 40 of "the Act") should be redacted. I do not believe that any other exemptions under Part 2 of "the Act" are relevant.

Accounts and allocations

1. For financial years FY2008/9, FY2009/10, FY2010/11, FY2011/12 and FY2012/13, please provide:

- a) The end of year accounts (or a link to them if published); and*
- b) A breakdown of allocated budgets for each teaching subject. (Maths, English, etc.)*

2. For financial year FY2013/14 (accepting that for the final third of the year, numbers will be estimates rather than actual), please provide:

- a) Annual accounts; and*
- b) A breakdown of allocated budgets for each teaching subject. (Maths, English, etc.)*

Payroll

3. For financial years FY2008/9, FY2009/10, FY2010/11, FY2011/12 and FY2012/13 (and FY2013/14 where available) please provide:

- a) The number of qualified teachers;*
- b) The total payroll for this group; and*
- c) The number of qualified teachers who received pay increases in addition to contractual automatic pay progression.*

4. For financial years FY2008/9, FY2009/10, FY2010/11, FY2011/12 and FY2012/13 (and FY2013/14 where available) please provide:

- a) The number of teaching assistants;*
- b) The total payroll for this group; and*
- c) The number of teaching assistants who received pay increases and what was the average increase (in percentage points).*

5. For financial years FY2008/9, FY2009/10, FY2010/11, FY2011/12 and FY2012/13 (and FY2013/14 where available) please provide:

- a) The number of non-teaching staff;*
- b) The total payroll for this group; and*
- c) The number of non-teaching staff who received pay increases and what was the average increase (in percentage points).*

**For the purposes of this section, "payroll" is the "full cost" so should include those costs other than salary, such as employer pension contributions, employer NI contributions and any bonuses paid. Number of staff should be recorded as Full Time Equivalents (FTEs).*

Teaching staff

6. In the current academic year, how many lessons have been taught by:

- a) Staff not qualified as a teacher (NQTs are considered to be qualified);*
- b) Higher level teaching assistants (HLTAs); and*
- c) Other staff without a professional teaching qualification who are also not HLTAs.*