

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 January 2016

Public Authority: Esher Church School
Address: Milbourne Lane
Esher
Surrey
KT10 9DU

Decision (including any steps ordered)

1. The complainant submitted a freedom of information ("FOI") request and a subject access request ("SAR") on behalf of his daughter to both the Chair of Governors and to the Head Teacher of Esher Church School (the "School"). The requests were made on 21 October 2015 and following the Commissioner's intervention, the information was collected on 20 January 2016.
2. The Commissioner's decision is the School has contravened section 10 of the FOIA by failing to provide an FOI response to the complainant within the required twenty working day compliance period. As the requested information has been collected, the Commissioner is satisfied that the School has now responded to the requests.
3. The Commissioner requires no further action to be taken.

Request and response

4. On 21 October 2015, the complainant wrote to the School and under the FOIA, requested information in relation to the School's Special Education Needs (SEN) provision and policies. He made 15 requests for the information required. He also made a subject access request (SAR) on behalf of his daughter.

5. The Chair of Governors wrote to the complainant on 27 November 2015 and explained he was collating the relevant information.
6. The complainant sent the Chair of Governors a reminder on 1 December 2015. On 17 December 2015 the Chair of Governors explained he had dealt with both requests together. He explained that as the school term was about to end, he had the requested information at his home (in a locked cupboard) where it could be collected.
7. On 4 January 2016 the complainant wrote to the School and asked it to arrange for the information to be available from the school office the following day. He explained he had been away since 16 December 2015.
8. On 6 January 2016 the Chair of Governors again wrote to the complainant and stated that the information could be collected from his house.
9. On 7 January 2016 the complainant offered to pay postage costs, or to collect the information from the School or from the Chair of Governors' house the next day. However the complainant explained he considered it was unreasonable and inappropriate for the Chair of Governors to insist the information should be collected from his private residence.
10. On 8 January 2016 the complainant confirmed his wife had gone to the Chair of Governors' house to collect the information but nobody was in.
11. On 13 January 2015 the Chair of Governors again wrote to the complainant and asked him to arrange a convenient time to collect the files. He explained that his house was the only place where all the information could be held securely.
12. The Commissioner wrote to the Chair of Governors on 14 and 18 January 2016. He informed the Chair of Governors that it was his responsibility to provide the information to the requester within the twenty working day timeframe.
13. The Commissioner also explained that he considers in this case it is reasonable for the complainant to expect to be able to collect the information from the school office. The Commissioner therefore asked that the information should be made available for collection from the school office on 20 January 2016.
14. The information was made available at the school office and collected on this date.

Scope of the case

15. The complainant contacted the Commissioner on 7 December 2015 to complain about the way his request for information had been handled.
16. The Commissioner considers the scope of this case to be concerned with the failure of the School to respond to this request within the statutory time limits.

Reasons for decision

17. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
18. From the information provided to the Commissioner in this case it is evident that the School did not respond to the complainant within the statutory time frame.

Other matters

19. The Commissioner has explained to the Chair of Governors his responsibility in terms of providing information under the FOIA and will monitor the School's performance in responding to future FOIA requests.
20. The request also contained a SAR on behalf of the complainant's daughter. In his correspondence, the Commissioner also informed the Chair of Governors that it is the data controller's responsibility to provide the requested data within 40 days.
21. The Commissioner explained that he would expect a data controller to send the data subject a copy of their personal data in response to a SAR to ensure compliance with the statutory 40 days. A data controller should only ask the data subject (or their representative) to collect the personal data with their agreement. Otherwise there is a risk that the statutory timescale will not be adhered to.
22. The School is now aware of its obligations under both pieces of legislation.

Right of appeal

23. Either party has the right 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: GRC@hmcts.gsi.gov.uk

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

24. 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.
25. 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
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