

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2024

Public Authority: Education Authority (NI)
Address: 1 Hospital Road
Omagh
BT79 0AW

Decision (including any steps ordered)

1. The complainant requested information about the way various schools deliver their religious education curriculum.
2. The Commissioner's decision is that the Education Authority ("the Authority") failed to respond to the requests within 20 working days and has therefore breached section 10 of FOIA.
3. The Commissioner requires the Authority to take the following steps to ensure compliance with the legislation.
 - provide a substantive response to the request, in accordance with its obligations under FOIA, in respect of each of the schools listed in the Annex to this notice.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

5. Between 8 November and 11 November 2023, the complainant wrote to each of the schools listed in the Annex and requested information in the following terms:

“Item one:

- a) Please confirm whether or not there is a process which your school follows to determine which external visitors are given access to pupils for the purposes of delivering Religious Education, Collective Worship or Assembly.
(Yes/No)
- b) Please describe who is responsible for this policy.
(Governor / Principal / Vice-Principal / Senior Leader / Nominated Teacher / Non-teaching staff / Other (please describe))
- c) Are Access NI checks part of this process?
(Yes/No)

Item two:

- a) Please confirm whether or not a record is kept (including e.g. in a diary, calendar or rota) of external visitors to the school who are given access to your pupils for the purposes of delivering Religious Education, Collective Worship or Assembly.
(Yes/No)

Item three:

- a) Please provide a list of all churches, religious organisations or non-religious organisations which sent ministers or representatives to your school for the purposes of delivering Religious Education, Collective Worship or School Assemblies under Article 21 of The Education and Libraries (Northern Ireland) Order 1986 between 6th Nov 2022 and 5th Nov 2023. Please indicate the specific church or organisation represented (e.g: St Malachy's, Belfast; Elim Bangor; Crown Jesus Ministries, Northern Ireland Humanists etc.). Please do NOT specify individuals' names (see privacy notice above). Please include organisations which deliver prayer or worship as part of their service (e.g. include reading support and sports or activity providers etc. if they also lead individual or group prayer sessions).

- b) For each church, religious or non-religious organisation, please indicate how frequently they were given access during this period.
(More than once per week / Weekly / 1-3 times per month / Less than once per month)
- c) Please also confirm for each church or organisation whether up-to-date Access NI checks were obtained for all individual representatives.
(Yes/No)

Item four:

- a) Please indicate whether:
 - i) parents are actively made aware of the churches and/or organisations that visit the school to deliver Religious Education, Collective Worship or Assembly;
 - ii) this information is publicly available (e.g. on the school website);
 - iii) this information is available on request; OR
 - iv) this information is not made available to parents.
(Actively / Info is publicly available / On request / Info is not made available)

Item five:

- a) There is a legal requirement to publish in the school prospectus the procedure which parents should follow to withdraw their child from Religious Education and/or Collective Worship. Please confirm that your prospectus contains this information.
(Yes/No)
- b) Please indicate whether:
 - i) this prospectus is actively sent (either physically or via email) to all parents;
 - ii) it is published and accessible (e.g. on the school website); OR
 - iii) it is only made available upon request.
(Actively distributed / Publicly available / On request)

Item six:

- a) Please provide the total number of pupils at your school who are currently withdrawn from Religious Education and/or Collective Worship.

Item seven:

- a) Please provide a brief outline of the current alternative provision arrangements for those children who are withdrawn from Religious Education and/or Collective Worship. Specifically, please provide examples of the alternative activities they are engaged in.
 - b) Do these activities take place in a separate dedicated space (i.e. removed from the classroom or assembly hall where RE/CW is being delivered)?
(Yes/No)
 - c) Please confirm whether or not these children are excluded from any whole school activities (such as but not limited to e.g. celebrations of success) as a result of their withdrawal.
(Yes/No)."."
6. Despite a further chaser, all of the schools listed in the Annex had failed to provide a substantive response by the date of this notice.

Reasons for decision

7. The Commissioner considers that the request in question constituted a valid request for recorded information under FOIA.
8. When a public authority receives a request for information, section 1(1) of FOIA requires that public authority to inform the requester whether or not the requested information is held and, if it is, to communicate that information – unless any exemption applies.
9. Schedule 1 of FOIA sets out the various bodies that are defined as “public authorities” for the purposes of the Act. Schools in Northern Ireland are covered by Part IV of Schedule 1, Section 54 of which lists the following as public authorities:

“(1) The managers of—

- (a) a controlled school, voluntary school or grant-maintained integrated school within the meaning of Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986,"¹
10. Article 2(2) of the Education and Libraries (Northern Ireland) Order 1986 defines a controlled school as being:
- “a grant-aided school under the management of the Authority”²
11. The same Article defines “managers” as being:
- “(a) in relation to a controlled school, the Authority”
12. According to data available from the Department of Education³, all of the schools listed in the Annex to this notice are controlled schools for the purposes of the Education and Libraries (Northern Ireland) Order 1986. Whilst each of these schools may be a separate organisation, for the purposes of FOIA they are classed as being part of the Authority.
13. It is therefore the Authority that is obliged to respond to all these requests.
14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to each request within 20 working days, the Authority has breached section 10 of FOIA and it must now issue a substantive response to each one within 35 calendar days.
15. The Authority should respond on behalf of each of the schools listed in the Annex. If the same piece of recorded information is held in respect of more than one school (for example, because the schools share a common policy), only one copy of that information needs to be provided – but the Authority should make clear which schools that information relates to.

¹ <https://www.legislation.gov.uk/ukpga/2000/36/schedule/1/paragraph/54>

² <https://www.legislation.gov.uk/nisi/1986/594/article/2>

³ <https://www.education-ni.gov.uk/services/schools-plus>

Right of appeal

16. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

17. 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.
18. 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

Roger Cawthorne
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

19. The request set out in this decision notice was submitted to the following schools:

Institution Reference Number	Institution Name
101-0266	Seaview Primary School
101-0282	Carr's Glen Primary School
101-0324	Stranmillis Primary School
101-0325	Ligoniel Primary School
101-0806	Finaghy Primary School
101-6076	Ballysillan Primary School
101-6207	Blythefield Primary School
101-6499	Botanic Primary School
101-6532	Wheatfield Primary School
101-6537	Lowwood Primary School
201-1789	Moat Primary School
201-1860	Belleek Primary School
201-1899	Derrygonnelly Primary School
201-2344	Mcclintock Primary School
201-2648	Gillygooley Primary School
201-2660	Denamona Primary School
201-2691	Omagh County Primary School
201-6071	Greenhaw Primary School
201-6262	Newtownstewart Model Primary School
201-6645	Bready Jubilee Primary School
201-6700	Gaelscoil Neachtain
301-0553	Carrickfergus Model Primary School
301-0646	Olderfleet Primary School
301-0745	Loanends Primary School
301-0795	Landhead Primary School
301-0802	Ballynure Primary School
301-0816	Randalstown Central Primary School
301-0834	Clough Primary School
301-0842	William Pinkerton Memorial Primary School
301-0847	Portrush Primary School
301-0850	Upper Ballyboley Primary School
301-0873	Bushmills Primary School
301-0892	Ballytober Primary School
301-2229	Hezlett Primary School
301-2269	Kilrea Primary School
301-2291	Maghera Primary School

301-3704	Castledawson Primary School
301-6015	Mossley Primary School
301-6063	Dunclug Primary School
301-6170	Ballyhenry Primary School
301-6244	Ashgrove Primary School
301-6257	Oakfield Primary School
301-6264	Irish Society's Primary School
301-6269	Cairncastle Primary School
301-6447	Balnamore Primary School
401-0788	Dunmurry Primary School
401-1578	Derryboy Primary School
401-1683	Braniel Primary School
401-6145	Killowen Primary School
501-0909	Foley Primary School
501-0992	Lurgan Model Primary School
501-1095	Mullavilly Primary School
501-1119	Darkley Primary School
501-1137	Newtownhamilton Primary School
501-1153	Lisnadill Primary School
501-1165	Richmount Primary School
501-1190	Tullygally Primary School
501-1596	Gilford Primary School
501-1602	Bleary Primary School
501-1617	Ballydown Primary School
501-1664	Scarva Primary School
501-1684	Annalong Primary School
501-2538	Churchill Primary School
501-2615	Ballytrea Primary School
501-2635	Augher Central Primary School
501-2657	Walker Memorial Primary School
501-2720	Dungannon Primary School
501-6027	Drumhillery Primary School
501-6078	Poyntzpass Primary School
501-6098	Brackenagh West Primary School
501-6117	Ballyoran Primary School
501-6658	Orchard County Primary School