

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 April 2012

Public Authority: Michael Sobell Sinai School
Address: Shakespeare Drive
Kenton
Harrow
Middlesex
HA3 9UD

Decision (including any steps ordered)

1. The complainant has requested information concerning security refunds for the 2011/12 academic year from Michael Sobell Sinai School (the "school").
2. The Information Commissioner's decision is that the school breached section 1(1), 10(1) and 16(1) but later correctly relied on section 1(3) of the FOIA after recognising its obligations.
3. The Commissioner requires no remedial steps to be taken in this case.

Request and response

4. The complainant wrote to the school with numerous requests for information between 18 July 2010 and 06 September 2011.
5. On 02 November 2011 the school wrote to the complainant to seek clarification of the requests having "*lost track*" (section 1(3)).
6. On 09 November 2011 the complainant responded providing clarification.
7. On 10 November 2011 the requested information was supplied to the complainant except where the request asked:

"On what date did the school realise that the information that [named employee] had given to us about being 'legally ...entitled to a refund' on an 'as and when' basis was incorrect?"

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. During the course of the Commissioner's investigation the outstanding information was disclosed to the complainant.
10. The Commissioner's investigation is limited to considering:
 - whether the school in failing to comply with section 1(1) within 20 working days breached section 10(1) of the FOIA;
 - whether the failure to state exemptions was a breach of section 17 of the FOIA; and
 - whether it was reasonable for the school to request clarification on 02 November 2011 at section 1(3);
 - whether the request to provide a "*justification*" for disclosure was a breach of the school's duty to provide reasonable advice and assistance in accordance with section 16(1) of FOIA.

Reasons for decision

11. Section 10(1) of the FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1) requires a public authority in receipt of a request to confirm whether it holds the requested information and, if so, to provide it.
12. The complainant never received a response that complied with section 1(1) and so the school was in technical breach of the statutory time period, taking over 20 working days to provide an appropriate response.
13. The Commissioner finds that the school did not refuse to disclose information having never confirmed whether information is held (section 1(1)(a)). There was no obligation to comply with section 17 and so there was no breach.
14. The Commissioner disagrees with the school in their approach to seek a justification on 23 September 2011 for handling requests. Requests are

applicant and motive blind and as such public authorities should refrain from seeking a justification from an applicant in order for it to merit whether or not time should be committed to consider a request for information. The Commissioner finds that this was contrary to the school's obligations to provide advice and assistance so far as it would be reasonable to expect, in breach of section 16(1) of the FOIA.

15. The school confirmed it would acknowledge its obligations under the FOIA on 02 November 2011 and asked the complainant to clarify what information was being sought.
16. Correspondence between the complainant and the school was lengthy and protracted for what could otherwise have been a straightforward submission of a freedom of information request. The school argued that because of this the complainant may have sought more information other than that which had been requested. Therefore it was reasonable on 02 November 2011 for the school to seek clarification of the information requested in order for it to, from then, attempt to fulfil its obligations under the FOIA (section 1(3)).
17. There are no steps that can remedy the breaches that have not already been taken by the school. The Commissioner has used his discretion to require no remedial steps to be taken in this case.

Right of appeal

18. 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: informationtribunal@hmcts.gsi.gov.uk

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

19. 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.
20. 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

Pamela Clements
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SK9 5AF