

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 January 2017

Public Authority: Oakwood High School
Address: Moorgate Road
Rotherham
S60 2UH

Decision (including any steps ordered)

1. The complainant has requested information from Oakwood High (the school) relating to the provision of uniform. The school provided some information but refused to disclose other information citing section 43 of the FOIA for some but no exemption for the remainder.
2. During the Commissioner's investigation the requested information was disclosed to the complainant. However, the complainant remained dissatisfied with the way his request had been handled.
3. The Commissioner's decision in this case is that the school breached sections 10, 17(1)(b) and (c) of the FOIA. But as the requested information has been disclosed, she requires no further action to be taken.

Request and response

4. On 15 February 2016, the complainant wrote to the school and requested information in the following terms:

"(1) a) When was the change of badge (re. new blazer badge) agreed?
b) Who authorised the change of badge?

(2) a) Did you obtain the new blazer badges from [name of company redacted]?
b) Did you receive these badges for free or did you purchase them?"

If you have purchased these items then we would like a copy of the original invoice and corresponding purchase order that was raised for this order.

(3) a) Regarding the new year 11 graduation ties. Were these obtained from [name of company redacted]?

b) Did you receive these ties for free or did you purchase them?

If you have purchased these items then we would like a copy of the original invoice and corresponding purchase order that was raised for this order.

c) What price did you sell these ties to pupils/parents?

(4) Have you received or ever received any free items from [name of company redacted] such as free ties or water bottles etc? if so, then we would like all details and relevant paperwork related to this"

5. As the complainant received no response, he wrote to the school again on 7 April 2016.
6. The complainant still did not receive a reply so he referred the matter to the Commissioner on 25 April 2016.
7. The Commissioner wrote to the school on 9 May 2016 to request that it issues a full response in accordance with the FOIA in 10 working days.
8. The school responded on 13 May 2016. The school provided the requested information with the exception of the purchase orders and invoices, as it considered this information is exempt from disclosure under section 43 of the FOIA. The school was also unwilling to confirm whether the uniform items mentioned in the request were purchased from the company concerned but it did not explain why. Instead it responded that the items had been purchased from a 'commercial company'.
9. The complainant requested an internal review on 9 June 2016.
10. The school carried out an internal review on 7 July 2016 and notified the complainant of its findings. It stated that it was satisfied with the response it had provided and felt it has now met its obligations under the FOIA.

Scope of the case

11. The complainant contacted the Commissioner on 13 July 2016 to complain again about the way his request for information had been handled. Specifically, the complainant remained dissatisfied with the school's refusal to confirm the name of the company that supplied the uniform items and the application of section 43 of the FOIA to his request for copies of the purchase orders and invoices.
12. During the Commissioner's investigation the school disclosed the name of the company involved and provided a full copy of the invoices and purchase orders. The school had contacted the company concerned and they were happy for the information to be released under the FOIA.
13. As the complainant has received all the information requested, she will not be considering the now academic point of whether section 43 of the FOIA did or did not apply. She has however agreed to review the handling of the request and record any procedural breaches of the FOIA.
14. The remainder of this notice will therefore focus on any procedural breaches of the FOIA.

Reasons for decision

Procedural issues

15. Section 10 of the FOIA stipulates that a public authority shall respond to a request for information within 20 working days of receipt. It should either provide the requested information or issue a refusal notice to the applicant in accordance with section 17 of the FOIA.
16. In this case the Commissioner notes that the complainant's request for information was first made to the school on 15 February 2016. However, the school did not respond to this request until 13 May 2016 and after the complainant had issued it with a reminder and involved the Commissioner.
17. The Commissioner therefore finds the school in breach of section 10 of the FOIA in this case.
18. The school also refused to disclose the name of the company which supplied the uniform items mentioned in the request but did not explain why. Section 17(1)(b) and (c) state that a public authority should specify the exemption in question when choosing to withhold information under the FOIA and state why that exemption applies.

19. As the school did not confirm which exemption it wished to rely on for this element of the request and failed to explain why that exemption applies, the Commissioner has found the school in breach of section 17(1)(b) and (c) of the FOIA.

Other matters

20. The Commissioner wishes to remind the school of its obligations under the FOIA and that it is obliged to respond to information requests it receives within 20 working days of receipt. It either needs to disclose the information to the applicant or issue a refusal notice in accordance with section 17 of the FOIA. The notice needs to specify the exemption being relied upon and why the school is of the view that it applies.
21. Any response that is issued should explain to the applicant their rights to request an internal review. These should be completed within 20 working days of receipt. The internal review response should then provide the contact details of the Commissioner and explain to the applicant their rights to make a complaint to her.
22. In this case, the requested information was finally released. The Commissioner believes this case could have been resolved more quickly had the school contacted the company responsible for providing the uniform items at the outset. In any event, if section 43 of the FOIA is to be relied upon by any public authority it should seek the views of the third party involved if it is to argue that their commercial interests are likely to be prejudiced by disclosure. The Commissioner does not consider it is sufficient for a public authority to merely speculate on a third party's behalf.

Right of appeal

23. 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: 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

Samantha Coward
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Wycliffe House
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