

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 March 2020

Public Authority: The Governing Body of St Thomas the Apostle College

Address: Hollydale Road
Nunhead London
SE15 2EB

Decision (including any steps ordered)

1. The complainant requested exclusion statistics for a defined period. The Governing Body of St Thomas the Apostle College ("the College") had failed to issue a substantive response at the date of this notice.
2. The Commissioner's decision is that the College has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the College to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The College 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. On 1 August 2019, the complainant wrote to the College and requested information in the following terms:

"We are writing to request information relating to the number of young people fixed term excluded, permanently excluded or otherwise asked to leave St Thomas the Apostle's ('the School') campus during

the school day in the month Eamon Connolly joined as Headteacher. We understand this month to be September 2012. If we are mistaken, please provide the correct month and treat all references to 'September 2012' in this letter, as the month Eamon Connolly joined the School as Headteacher.

"Kindly provide us with the following information:

- [1] How many people were permanently excluded from the School in September 2012?*
- [2] How many people were permanently excluded from the School in the academic year 2012-2013?*
- [3] How many people were fixed term excluded from the School in September 2012?*
- [4] How many people were fixed term excluded from the School in the academic year 2012-2013?*
- [5] How many people were sent home from, or by any other means asked to leave the school's campus on an indefinite or temporary basis in September 2012?*
- [6] How many people were sent home from, or by any other means asked to leave the school's campus on an indefinite or temporary basis in the academic year 2012-2013?"*

6. The College acknowledged the request on the same day but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 7 October 2019 to complain about the failure, by the College, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the College on 25 October 2019 to highlight the outstanding response. She requested that the College respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The Commissioner wrote separately to the complainant on the same day to advise him of her course of action. This correspondence appears to have gone astray because the complainant contacted the Commissioner on 2 March 2020 to complain that since he originally contacted the Commissioner he had not heard from either her or from the College.

10. Given that the College does not appear to have complied with her informal request, the Commissioner considers that a decision notice is now appropriate.
11. The scope of this notice and the following analysis is to consider whether the College has complied with section 10 of the FOIA.

Reasons for decision

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

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

13. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

14. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
15. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the College has breached section 10 of the FOIA.

Right of appeal

17. 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@justice.gov.uk

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

18. 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.
19. 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

**Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**