

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 January 2023

Public Authority: Department for Education (DfE)
Address: Sanctuary Buildings
Great Smith Street
London
SW1P 3BT

Decision (including any steps ordered)

1. The complainant requested information relating to the verification of St Faith's School as a recognised legal entity in the UK.
2. The Department for Education (DfE) provided a redacted copy of information in scope of the request, and cited section 40(2) (personal information) of FOIA for the redaction of the disclosed information and stated it did not hold any further information within scope of the request.
3. The Commissioner's decision is that, on the balance of probabilities, the DfE holds no further recorded information relevant to the complainant's request and has complied with section 1(1) of FOIA. However, the DfE failed to provide their response within 20 working days of the request, and therefore breached section 10 of FOIA.
4. The Commissioner does not require any steps to be taken as a result of this decision notice.

Request and response

5. On 11 April 2022, the complainant wrote to the DfE and requested information in the following terms:

"Regarding UKRLP registrant ST FAITH'S SCHOOL UKPRN: 10027314 [1], please provide all documents and information relating to the verification as "a recognised legal entity in the UK as verified by a recognised legal source" [2] .

(1)https://www.ukrlp.co.uk/ukrlp/ukrlp_provider.page_pls_provDetails?x=&pn_p_id=10027314&pv_status=VERIFIED&pv_vis_code=L

(2)[https://web.archive.org/web/20220411101809/https://www.ukrlp.co.uk/ukrlp/ukrlp_util.page_pls_staticPage?x=&pv_page=FAQ."](https://web.archive.org/web/20220411101809/https://www.ukrlp.co.uk/ukrlp/ukrlp_util.page_pls_staticPage?x=&pv_page=FAQ.)

6. The DfE responded on the 29 July 2022 with copies of information it held and an explanation for its response.
7. The complainant and DfE had further email exchanges, and on 1 September 2022 after a request for clarification, the complainant reiterated that the scope of their request was for documentary evidence to demonstrate the verification of a school as a recognised legal entity.
8. On 23 September 2022, the DfE responded stating they had carried out a thorough review of the request and that they upheld the original response and stated that no further information in scope of the request was available.

Scope of the case

9. The complainant initially contacted the Commissioner on 5 June 2022, to complain about the way their request for information had been handled and after further correspondence with both the DfE and the ICO, the complaint was accepted on 29 September 2022 after the internal review outcome.
10. The Commissioner considers the scope of his investigation is to determine if the DfE has correctly refused to provide the information requested under section 1 of FOIA.

Reasons for decision

Section 1 FOIA - determining whether information is held

11. Section 1(1) of the FOIA states:

"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."

If a public authority does not hold recorded information that falls within the scope of the request, the Commissioner cannot require the authority to take any further action.

12. In cases where there is a dispute as to the information held by a public authority, the Commissioner will use the civil standard of proof, i.e., the balance of probabilities. In order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request.

13. Accordingly, the investigation will consider the scope, quality, thoroughness, and results of the searches, and/or other explanations offered by the DfE as to why the information is not held.

14. The Commissioner will also consider any arguments put forward by the complainant as to why the information is likely to be held (as opposed to why it ought to be held). Finally, the Commissioner will consider whether there are any further steps the public authority could be required to take if the complaint were upheld.

The complainant's position

15. The complainant has argued that their request was for information relating specifically to the verification of a school by UK Register of Learning Providers (UKRLP) and that Get Information about Schools (GIAS) is not a recognised legal source, nor does it purport to show whether an organisation is a legal entity.

The DfE's position

16. The DfE states they have responded to the complainant several times and that attempts were made by the department to seek further clarification from the requester in relation to the information they requested, and therefore the department had sought to assist the requester in attaining the information requested. However, the requester declined to engage when they sought further clarification and believe their response to this request was fair and appropriate, and that the information released was the only information falling in scope of this request.
17. Regarding whether there is more information in scope of this request, other than that which had previously been released, on revisiting the case at Internal Review (IR), the panel and Chair concluded that no further information in scope of this request is available.
18. And, within its internal review response it states:

“ For independent schools, UKRLP doesn't require any additional documentation as the verification of all legal details are sourced from Get Information About Schools (GIAS) and Royal Mail, which is taken as a trusted source.

We can confirm that the details we have supplied are all the details which we hold from their submission and the information we have provided is all the information we hold in scope of this request.”

The Commissioner's view

19. The Commissioner has carefully considered the points made by the complainant and the DfE.
20. During the Commissioner's investigation, the DfE has stated that: “on searching our correspondence files, policy clients have confirmed that the correspondence we hold about this school relates to such matters as inspection reports, correspondence around them, details of material change applications and, typically, correspondence we have received about a school from members of the public, all of which is out of scope of this request.”
21. The Commissioner appreciates that the complainant has concerns about the way their request was handled by the DfE. However, the Commissioner considers that the DfE's responses have adequately addressed these points.

22. In addition, the Commissioner is unable to identify any further action that the DfE could reasonably be expected to take as part of its statutory obligations under FOIA in order to identify or locate any further information falling within the scope of this request.
23. As has been set out above, the DfE disclosed the information it held within scope of the request and subsequently confirmed no further information was held, if information is not held then it cannot be disclosed in response to a request.
24. In conclusion, the Commissioner finds, on the balance of probabilities, the DfE does not hold any further recorded information falling within the scope of this request.

Section 10 – time for compliance

25. Section 1 of FOIA states that “any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request.”
26. Section 10(1) provides that a public authority must comply with section 1 promptly and in any event not later than the twentieth working day following the date of receipt of a request for information.
27. In this case, the complainant submitted their request on 11 April 2022 and the DfE did not issue a response until 29 July 2022, some three months later.
28. The Commissioner finds that the DfE breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

29. 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

30. 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.
31. 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
Head of Freedom of Information Casework
Information Commissioner's Office
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SK9 5AF