

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 January 2018

Public Authority: Cheddington Combined School
Address: High Street
Leighton Buzzard
Cheddington
Buckinghamshire
LU7 0RG

Decision (including any steps ordered)

1. The complainant has requested from Cheddington Combined School ("the School") the YouTube link of a video that was shown during a history class and further detailed information in relation to the content of that video.
2. The Commissioner's decision is that, on the balance of probabilities, the School does not hold information further to that already provided.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 10 May 2017, the complainant wrote to the School and requested information in the following terms:

"Full details of the video shown to Year 4 on Friday 27th January 2017

A link on email to the video on YouTube that was shown.

Copy of the lesson plan

Copies of the meeting notes and any other notes in school which relate to our family made between January 2017 and May 2017.

In the event of the link still not being available, please can you email a detailed description of the content of the video shown. Can I specifically request the following details be included:

- *Was the video shown, a clip from a film or a re-enactment made for educational purposes?*
 - *If it was a film, can you supply the name of the film.*
 - *Do you know who made the video, or who posted in on YouTube, was it on an educational channel?*
 - *What setting was the fighting, for example was it from the invasion of Britain?*
 - *What sort of fighting was shown, Romans used many forms of combat?*
 - *What level of blood and gore was shown? How many people were shown injured and what level / type of injury was shown?*
 - *Who viewed the video before it was shown to check it's content was suitable for the age it was shown to, and what checks are in place to monitor content of YouTube videos before they are shown?"*
5. The School responded on 24 May 2017. It provided a copy of the lesson plan, and regarding the link of the video it stated that *"...following an on line search by the year 4 teacher we have not been able to access the video mistakenly was shown very briefly on 27 January....It is not on the school's servers or on back-up tapes and we have not retained the link to the video. Therefore the school does not hold the information you have requested."*
6. The School explained that the request for the copy of the meeting notes was considered under the Data Protection Act 1998 (DPA), due to the fact that it contained personal data of the complainant.
7. The School informed the complainant that it could not offer an internal review to the complainant, but instead instructed her that should she be dissatisfied with the outcome of her request to contact the Information Commissioner's Office.

Scope of the case

8. The complainant contacted the Commissioner on 21 September 2017 to complain about the way her requests for information had been handled.
9. In the complaint letter, the complainant expressed her view that the School must hold information further to that provided.
10. The Commissioner has considered whether the School has identified and provided all of the requested information it holds for the purposes of FOIA.
11. The Commissioner has however considered separately under the DPA the handling of the request for meeting minutes referred to at paragraph 6. This particular request is not therefore addressed as part of the notice.

Reasons for decision

Section 1(1) – General right of access

12. Section 1 of the FOIA provides a general right of access to recorded information held by public authorities. Any person making a request for information to a public authority is entitled to be informed in writing by the public authority within 20 working days whether it holds information of the description specified in the request, and if that is the case, to have that information communicated to him unless a valid reason exists for not doing so under the legislation.
13. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check that the information was not held and she will consider if the authority is able to explain why the information was not held.
14. For clarity, the Commissioner is not expected to prove categorically whether the information was held. She is only required to make a judgement on whether the information was held "on the balance of probabilities".¹
15. The complainant claims that the information she has received is not sufficient and she believes that if the School is not in possession of the

¹ This approach is supported by the Information Tribunal's findings in *Linda Bromley and Others / Environment Agency* (31 August 2007) EA/2006/0072

YouTube video-link, it is under an obligation to provide further information in relation to that link.

The School's position

16. The Commissioner wrote to the School requesting a submission in respect of a number of questions relating to the allegations raised by the complainant. The questions were focused on the School's endeavours in providing the requested information to the complainant, its searches conducted in order to find the requested YouTube video-link, and whether any of the information falling within the scope of the requests were deleted or destroyed.
17. The School reaffirmed its position that it does not hold recorded information falling within the scope of the requests beyond that already provided to the complainant.
18. The School explained that the searches on its servers conducted by its IT manager and an external IT consultant showed that on the specified date and time a YouTube video was accessed, but the specific link had not been saved. An additional attempt to search for the YouTube video, using the same keywords was not successful.
19. Furthermore, the School confirmed that "*No information falling within the scope of the Request has been deleted, destroyed or mislaid at any time...*"

The complainant's position

20. On 5 December 2017, the Commissioner wrote to the complainant explaining the preliminary conclusions drawn from the responses received from the School and invited the complainant to submit any further evidence or argument which would contradict the Commissioner's findings.
21. The complainant suggested that, since the requested information i.e. the YouTube link could not be retrieved, the School should take a statement from the School teacher who was present in the class when the video sequence was shown.
22. In addition the complainant asserted that she believed that the school is deliberately withholding the information and requested advice from the Commissioner about whether the requested information could be accessed under the DPA.

The Commissioner's view

23. The Commissioner has reviewed the copies of the requested documents that the School has provided to the complainant and the correspondence it had in the course of handling the complainant's requests.
24. In the circumstances of this case the School has informed the Commissioner of the searches for relevant recorded information it has undertaken. The School has explained that since it is a relatively small primary school it does not have a specialised IT department. Nevertheless, in addition to searches conducted by the School's IT manager, the School has also engaged an external IT consultant in its attempts to retrieve the requested YouTube link. Unfortunately, their searches did not produce the desired outcome.
25. Whilst the Commissioner recognises that the complainant does not consider that the School has fulfilled the requests, the School has provided a clear explanation of the searches that underlay its responses. No evidence is available to the Commissioner that indicates that the School's searches have been insufficient, or that further recorded information is held that addresses the requests.
26. With regard to the complainant's suggestion for the School to provide a statement from the teacher, the Commissioner reiterates that the FOIA provides public access to *recorded* information held by public authorities. This means in order for it to be accessed under the FOIA, the information requested must be in a recorded form at the time when the request is submitted. Consequently, the FOIA does not require public authorities to produce or create information in response to a submitted information request.
27. The Commissioner has considered the searches performed by the School, the amount of information provided, the School's explanations as to why there is no further information held and the complainant's concerns. On the balance of probabilities, the Commissioner considers that the School does not hold any further information to that already provided.
28. In coming to this conclusion, the Commissioner notes that the complainant has proposed accessing the requested information under the DPA. However, this proposal is misconceived. Firstly, the DPA only provides a right of access to the personal data of a requester. The information in this case, if held, would not constitute the complainant's personal data. Secondly, in this context, the DPA would like FOIA only provide a route to information held by the PA.

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@hmcts.gsi.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

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