

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 8 January 2013

**Public Authority:** The Governing Body of the Federation of Grazebrook & Shacklewell Primary Schools

**Address:** Shacklewell Row, Hackney  
London, E8 2EA

### Decision (including any steps ordered)

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1. The complainant has requested information relating to the issue of flexi schooling at Grazebrook and Shacklewell Primary Schools ('the school').
2. The Commissioner's decision is that the school, on the balance of probabilities, does not hold any further information within the scope of the complainant's request.
3. The Commissioner does not require the school to take any steps.

### Request and response

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4. On 15 February 2012, the complainant wrote to the school and requested information in the following terms:

*"Could you please supply me with information relating to the issue of flexi-schooling at Shacklewell Primary School from 1 June 2010 to 15 February 2012 held by Shacklewell Primary School. Please include copies of material which you hold in the form of paper and electronic records, including emails, including but not limited to, the following specific items:*

- (a) All internal correspondence (including emails), notes of meetings and notes of verbal and telephone conversations;*
- (b) All external correspondence (including emails), notes of meetings and notes of verbal and telephone conversations;*
- (c) All information relating to the decision to end the flexi-schooling as communicated at the meeting held on 17 November 2011*

*including, but not limited to i) the reasons for the decision ii) the time of the decision iii) who made or was involved in the making of the decision;*

*(d) Any information relating to flexi-schooling of my two children.*

5. The school responded on 5 March 2012. It provided a number of documents in response. However, the complainant stated that, apart from one email, the information she received were all documents that she already had access to as they consisted of her own correspondence. The school did not provide any copies of meeting minutes, correspondence or the decision making process.
6. Following an internal review the school wrote to the complainant on 14 March 2012. It stated that it had provided all the documents held on this matter.

### **Scope of the case**

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7. The complainant contacted the Commissioner to complain about the way her request for information had been handled. She believed that the school had withheld information from her and consequently had not fulfilled her information request. The Commissioner received the complaint on 21 June 2012.
8. The Commissioner considers the scope of this case to be to determine if the complainant has been provided with all the information held by the school within the scope of her request.

### **Reasons for decision**

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9. Section 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.
10. The Commissioner has considered whether the school has complied with section 1 of the FOIA.

11. On 25 September 2012 the Commissioner wrote to the school and asked the following questions to determine what information, if any, it held that was relevant to the scope of the request:

- What searches were carried out for information falling within the scope of this request and why would these searches have been likely to retrieve any relevant information?
- If searches included electronic data, please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.
- If searches included electronic data, which search terms were used?
- If the information were held would it be held as manual or electronic records?
- Was any recorded information ever held relevant to the scope of the complainant's request but deleted/destroyed?
- If recorded information was held but is no longer held, when did the school cease to retain this information?
- Does the school have a record of the document's destruction?
- What does the school's formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the school describe the way in which it has handled comparable records of a similar age?
- If the information is electronic data which has been deleted, might copies have been made and held in other locations?
- Is there a business purpose for which the requested information should be held? If so what is this purpose?
- Are there any statutory requirements upon the school to retain the requested information?

12. The Commissioner is mindful of the Tribunal's decision in *Bromley v the Information Commissioner and the Environment Agency*<sup>1</sup> in which it stated that "*there can seldom be absolute certainty that information*

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<sup>1</sup> EA/2006/0072

*relevant to a request does not remain undiscovered somewhere within a public authority's records".* It was clarified in that case that the test to be applied as to whether or not information is held was not certainty but the balance of probabilities. This is the test the Commissioner will apply in this case.

13. On 7 December 2012 the school responded to the questions detailed in paragraph 11 above. It explained that it had provided the complainant with all the information it held following her request.
14. The school also confirmed that it had carried out further searches for the complainant's request for copies of correspondence, including emails, and notes of meetings and conversations, as it was this element of the request where the complainant disagreed with the school's response.
15. The searches included searches of the school's hard copy records, including its correspondence file and dedicated school file; the school's electronic records, including folders and files containing correspondence and meeting papers; and the email accounts of the Executive Headteacher and the former Head of School.
16. The school considered that these searches would be likely to retrieve all relevant information as they represent the full range of locations where correspondence, meeting notes and other documentation regarding flexi-schooling might feasibly be held. The email accounts of the two individuals were also searched because they were the individuals responsible for the flexi-schooling initiative, including any associated communication, both internally and externally.
17. The school also explained which search terms it had used e.g. the complainant's name, 'flexi' and flex schooling'. Theoretically, the information could be held as either manual or electronic records and both were searched following receipt of the request. The school maintained that the complainant has received all available information relevant to her request and that no additional information exists.
18. The school confirmed that it has carried out all reasonable searches using combinations of search terms using key words given in the text of the request
19. The Commissioner notes that it can be difficult for a public authority to "prove" that it does not hold any information on a particular subject. Having reviewed the evidence, the Commissioner is satisfied that the school conducted a thorough and extensive search for the relevant information.
20. The Commissioner considers that, on the balance of probabilities, the requested information is not held by the school. Therefore the school

has complied with section 1(1)(a) of the FOIA in advising that it did not hold the information.

## Right of appeal

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21. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

22. 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.
23. 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**  
**Group Manager, Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**