

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 August 2017

Public Authority: The Gorse Academies Trust
Address: The Morley Academy
Fountain Street
Leeds
LS27 0PD

Decision (including any steps ordered)

1. The complainant requested information held by The Gorse Academies Trust (TGAT) relating to the Gorse Academy Society of Parents Facebook group.
2. TGAT's response stated that the information was exempt as it was legally professionally privileged. During the course of the Commissioner's investigation some information was disclosed to the complainant and the matter was resolved informally, and so the Commissioner has not considered TGAT's application of section 42 of the FOIA within the scope of this decision. The complainant requested a formal decision in respect of TGAT's compliance with sections 10 and 17 of the FOIA.
3. The Commissioner's decision is that TGAT failed to comply with sections 10(1), 17(1) and 17(7) of the FOIA, however as TGAT has provided the complainant with some information and the matter has been informally resolved the Commissioner does not require TGAT to take any steps.

Request and response

4. The complainant wrote to TGAT on 9 June 2016 and requested the following information:

I am making this request under the terms of the Freedom of Information Act 2000.

On 9th June 2016 it was reported in several national newspapers that the Executive Principal of The GORSE Academies Trust, Sir John Townsley, had threatened legal action against a group of parents involved with the so-called Gorse Academy Society of Parents Facebook group.

In accordance with section 1 of the Act, please provide the following information:

- 1. All information held by The GORSE Academies Trust that mentions or relates to the so-called Gorse Academy Society of Parents Facebook group.*
- 2. All information held by The GORSE Academies Trust that mentions or relates to the Executive Principal seeking legal advice in relation to the so-called Gorse Academy Society of Parents Facebook group.*
- 3. All information held by The GORSE Academies Trust that mentions or relates to expenses incurred by the Executive Principal in seeking legal advice in relation to the so-called Gorse Academy Society of Parents Facebook group.*

This includes, but is not limited to, any relevant information contained within any documents, handwritten notes, images and emails.

5. A response was issued on 21 September 2016 in which it was explained that the information requested was the subject of litigation and as such it was legally professionally privileged and exempt from disclosure.
6. The complainant requested an internal review on 21 September 2016.
7. In its internal review response TGAT upheld its decision to withhold the requested information under section 42 of the FOIA.

Scope of the case

8. The complainant initially contacted the Commissioner on 1 August 2016 to complain about TGAT's failure to respond to his request. The Commissioner intervened at that stage and wrote to TGAT to ask it to issue the complainant with a response.
9. The complainant contacted the Commissioner again on 21 September to complain that despite the Commissioner's intervention, he had still not

received a response, although the Commissioner notes that a response was in fact issued that same day.

10. On 26 October 2016, following TGAT's internal review the complainant asked the Commissioner to consider TGAT's refusal to provide the requested information on the basis of section 42 of the FOIA. In addition he asked for a formal decision in relation to TGAT's failure to comply with section 10 and section 17 of the FOIA.
11. During the course of the Commissioner's investigation TGAT disclosed some information which it had previously withheld under section 42 of the FOIA to the complainant, and that aspect of the complaint was informally resolved. Accordingly the Commissioner will not go on to consider TGAT's application of section 42 within the scope of this decision.
12. The Commissioner considers the scope of this decision is whether TGAT complied with the requirements of section 10 and 17 of the FOIA.

Reasons for decision

13. Section 10(1) of the FOIA states that:

"subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

14. The Commissioner finds that TGAT failed to comply with the requirement of section 1(1) within twenty working days following receipt of the request, and on this basis breached the requirement of section 10(1).

15. Section 17(1) states that:

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of part II relating to the duty to confirm or deny is relevant to the request, or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which-

- (a) States that fact,*
- (b) Specifies the exemption in question, and*
- (c) States (if that would not otherwise be apparent) why the exemption applies.*

16. TGAT did not inform the complainant that it was relying on exemptions within the timescale set out in section 10, therefore the Commissioner finds that it has breached section 17(1).
17. The Commissioner interprets "specifying" the exemption to mean that a public authority must cite the specific section number and if necessary subsection(s). Whilst TGAT explained to the complainant that it considered the requested information was exempt as it was legally professionally privileged, it did not specify the relevant section of the Act (section 42) and so the Commissioner finds that TGAT breached section 17(1)(b).
18. The Commissioner also finds that TGAT has breached section 17(7) which states that any notice under section 17(1) must contain particulars provided by the public authority for dealing with complaints about the handling of requests for information or state the authority does not provide such a procedure, and contain particulars of the right conferred by section 50 of the Act. TGAT failed to provide this information to the complainant.

Right of appeal

19. 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

20. 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.
21. 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
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