

8 September 2009

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Matt Hupfield
www.whatdotheyknow.com

Dear Mr Hupfield

Re Freedom of Information Act 2000

We are in receipt of the following requests for information via the "What Do They Know" website:

Sent 27 August 2009

http://www.whatdotheyknow.com/request/home_education_quarterly_confere

As an additional request could you please provide me with the details of the working days and times of the EHE team.

Sent 27 August 2009

http://www.whatdotheyknow.com/request/home_education_questions_re_revi

With regards to point 1: I assume the absent officers are no longer absent so could you please ask them for the information I requested regarding their answer to question 2 of the review questionnaire.

With regards to point 3: The response to question 6 of the review questionnaire states that the LA believe 4.2% of EHE children have a statement for their special educational needs and that 95.8% have non-statemented special educational needs. Could you please go back to the EHE team and confirm whether: a) They believe this to be correct. b) They have provided misleading information in their response to a Government review.

With regards to point 4: I have looked at the link you provided. There is no mention on those pages of any HE groups that the Local Authority run. Could you please go back to the EHE team and ask for specific details of the groups they claim to offer in their response to question 10 of the review response.

With regards to point 5: Could you provide me with the name and contact details of the person who did, or should have, proof read the review questionnaire response.

Section 1(1) of the Freedom of Information Act 2000 states that any person making a request for information to a public authority is entitled to be informed in writing if the requested information is held and if that is the case, to have the information communicated to him. However there are exceptions to this general right of access and where a public authority wishes to rely on an exemption you have a right to be told which exemption applies and why.

After careful consideration I regret that Staffordshire County Council can no longer comply with your requests for information and this is our formal refusal notice under section 17(1) of the Freedom of Information Act 2000.

[NB. For the sake of clarity this refusal does not include your request dated 29 June 2009 for information relating to the Elective Home Education Forum. Although the majority of the information has been released, the minutes requested are subject to a public interest test, which is currently ongoing. This request is not included in my consideration of section 14(1) as it was an open case before we received the additional requests outlined above. The outcome of the public interest test will be provided separately as per our standard FOI process.]

Applicable Exemption

The exemption applicable in this case is section 14 [Vexatious or Repeated Requests], specifically section 14(1) as follows:

Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

The Information Commissioner has stated that a vexatious request is, or causes, excessive burden, has no serious purpose, causes disruption and annoyance and leads to harassment of the public authority.

Whilst the Freedom of Information Act is generally applicant blind, public authorities may take into account the identity and motive(s) of the applicant when considering section 14. As such, in these cases, there is no requirement for a public authority to adhere to the 'applicant blind' principle. The Information Commissioner has also stated that using the Freedom of Information Act to pursue running disputes with a public authority is inappropriate and the examination of the previous history of the applicant and their requests and correspondence to the public authority is also relevant when establishing if a request is vexatious.

Further details about the application of section 14 can be found on the Information Commissioner's website here:

http://www.ico.gov.uk/Global/faqs/freedom_of_information_for_organisations.aspx#f219A8692-DBD3-4941-A2D7-4DDEADEC3477

Statement why the Exemption Applies

I have considered that section 14(1) is applicable to your requests as they are deliberately designed to cause disruption or annoyance. My evidence for this is your website <http://www.theartofsurvival.co.uk/homeeducation/action8.php#> where you specifically state:

"Not only does the Freedom Of Information Act entitle you to ask for information the Local Authority would rather keep hidden it enables you to waste a considerable amount of their time and money."

You also go on to state:

"Make sure your requests are specifically for HE related information so it will directly waste their time and money."

This clearly shows that you are sending Freedom of Information requests to deliberately cause inconvenience to the public authority by wasting public funds and diverting staff from the provision of front line services.

Furthermore, I have considered the wider context of your requests and correspondence with the council in our consideration that your requests are designed to cause disruption or annoyance. Your requests are part of a series of correspondence to Staffordshire County Council which not only include the Freedom of Information requests on the What Do They Know website but also correspondence with various staff within the Children and Lifelong Learning Directorate. It can be seen that this correspondence, together with the overlapping requests and the combination of accusations and complaints, that the Freedom of Information requests are designed to further your disruption of the authority without any proper or justified cause. In addition, much of your correspondence, both FOI requests and otherwise, include personal accusations against particular members of staff (in particular staff within the Elective Home Education Team) which has the effect of causing harassment or distress. For example, your website <http://www.hupfield.com/matt/index.php> states:

Staffordshire County Council's Elective Home Education Team is built on incompetence, lies, intimidaton [sic] and cowardice.

I have also taken into account the history of your previous Freedom of Information requests and how Staffordshire County Council has responded to the requests. Since 13 October 2008 you have made a total of 65 unique requests (via 20 e-mails from What Do They Know). Where the information is held, a full response has been provided to all requests with one exception, where section 12 (exemption where cost of compliance exceeds appropriate limit) was applied. Staffordshire County Council have acted appropriately and endeavored to provide the information you have requested. You have also claimed that we are deliberately taking 20 days to answer your requests. From the date of request and the date of the Staffordshire County Council responses published on the What Do They Know website I note that of 62 unique closed requests, only 9 have taken the full 20 working days allowed and 10 have taken 19 working days. The average response time for Staffordshire County Council answering your requests has been 14 working days. [The figure of 62 does not include the three requests classed as currently open.] On only one occasion there has been an extension of time over the twenty working days required, where the public interest test was considered regarding the DCFS questionnaire. In these circumstances, an extension to the time for compliance for due consideration is allowed under the Act [as per section 10(3)]. In particular on that occasion you continued to pursue this request, making several other requests relating to the public interest test, despite the information you had requested being released in full.

I have considered that Staffordshire County Council have tried to be fair and transparent however your pursuance of these requests, together with your previously mentioned statements and the information from a wider context all lead me to conclude that the requests referred to at the start of this letter are vexatious under section 14(1) and Staffordshire County Council have no obligation to respond further. Please note, under section 17(6) where an authority seeks to rely on the exemption in section 14 in relation to a previous request for information, there is no obligation to issue a further notice stating that we are relying on such a claim if we are in receipt of similar requests.

Your right of appeal

In the first instance, if you wish Staffordshire County Council to reconsider that application of section 14(1) in this case, please write to Philip Jones, Head of Information Governance, Information Governance Unit, 1a Bailey Street, Stafford, ST17 4BG.

If, on completion of the internal review, you are still not satisfied, please contact the Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Yours Sincerely

Catherine Lantsbery

Access to Information Manager

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