

23 May 2019

Our Reference: CAS-420191-N2CWFB

Steiner Waldorf School Fellowship

By email:

[request-556079-  
526f461e@whatdotheyknow.com](mailto:request-556079-526f461e@whatdotheyknow.com)

Dear Sirs

### **Your request for information**

I write further to our letter of 25 April 2019. This explained to you our decision to extend the timescale for responding to your Freedom of Information (FOI) request for Ofsted to consider the balance of the public interest. We have now concluded our assessment, and this letter sets out our full response.

You asked for disclosure of information in relation to the following inspections - Beechtree Steiner Initiative (URN 144620) on 12 June 2018, Greenwich Steiner School (URN 132086) on 27 November 2018, and Iona Steiner School (URN 122941) on 4 December 2018. Specifically:

*"copies of briefing material made available to Ofsted inspectors preparatory to the inspections and records of emails or other written exchanges within Ofsted discussing the outcome/grading of these schools or commenting on the (as yet unpublished) reports."*

### **The Freedom of Information Act**

We have dealt with your request in accordance with the Freedom of Information (FOI) Act 2000. The first requirement of the Act is that we should confirm whether we hold information of the description set out in your request.

I can confirm we hold some information in relation to your request. We hold pre-inspection materials from all three inspections, a copy of a briefing presented to inspectors about inspecting Steiner schools, and a small number of emails generated after the inspections, relating to our quality assurance of the inspections. We are able to disclose some information to you, and this is attached to the email accompanying this letter.

We are releasing materials created either for or by inspectors in preparation for their inspections. These include: pre-inspection analysis, evidence forms, and summaries, as well as joining instructions and a draft timetable.

We have also included the two forms from the Department for Education that commissioned Ofsted to inspect Greenwich Steiner School and the Iona School. In these forms, the reason for the inspection states that the commission was agreed as part of the 'Steiner Exercise'. Ofsted understood this term to refer to the commission for Ofsted to inspect five independent Steiner schools usually inspected by the Schools Inspection Service: Greenwich Steiner School, the Iona School, London Steiner School, Michael House and Moorland Waldorf. As Beechtree Steiner Initiative has always been inspected by Ofsted, there is no such form for the inspection of this school in June 2018.

We are releasing a PDF of a PowerPoint briefing that was delivered to inspectors conducting inspections of Greenwich Steiner School, the Iona School, London Steiner School, Michael House, and Moorland Waldorf. We are also releasing an email inviting inspectors to attend the briefing and attaching a curriculum policy document for review in advance. The briefing was not presented to the inspectors conducting the inspection of the Beechtree Steiner Initiative.

Within the briefing and pre-inspection materials is information relating to complaints Ofsted had received about the schools concerned. We consider that this complaints information is exempt from disclosure to the public. We also consider that information relating to our quality assurance of the inspections, and a small amount of information in the disclosed presentation slides consisting of instructions to inspectors, is exempt from disclosure. We believe the exemptions at sections 31 and 40 of the FOI Act apply to this information. We also consider that the names and contact details of DfE and Ofsted staff as personal data, are exempt from disclosure to the public under the Act under section 40. This is explained in full in Annex A, below.

If you are dissatisfied with our response or the handling of your request, you may request a formal internal review. In order to do this, please write to the following address, setting out which areas of the response you are unhappy with:

Email: Richard McGowan at [informationrequest@ofsted.gov.uk](mailto:informationrequest@ofsted.gov.uk) or write to:

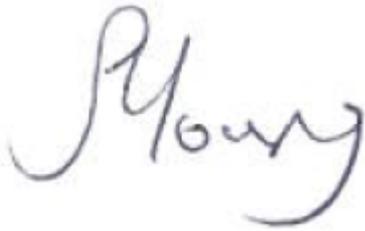
Head of Information Rights and Correspondence  
Ofsted  
2 Rivergate  
Temple Quay  
Bristol  
BS1 6EH

If you are not content with the outcome of the internal review, you also have the right to apply to the Information Commissioner for a decision as to whether we have complied with our obligations under the FOI Act with respect to your request. The Information Commissioner can be contacted at:

<https://ico.org.uk/concerns/getting/>

or:

Customer Contact  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow

A handwritten signature in black ink that reads "S Young". The signature is written in a cursive style with a large, looped 'S' and a long, sweeping tail for the 'y'.

Sophie Young  
Principal Officer, Unregistered and Independent Schools

## Annex A – Exempt Information

### Section 31<sup>1</sup>

We consider the exemption at section 31 applies to some of the information as referenced above.

Section 31(1)(g) of the FOI Act states that "*information (...) is exempt information if its disclosure under this Act would, or would be likely to, prejudice—*

*(1)(g) the exercise by any public authority of its functions for any of the purposes specified in subsection (2),*

*[...]*

*(2)(c) the purpose of ascertaining whether circumstances which would justify regulatory action in pursuance of any enactment exist or may arise".*

The findings of independent school inspections are used by the Secretary of State in determining where it is necessary to take regulatory action against independent schools, under the Education and Skills Act 2008. This exemption would therefore apply where disclosure would be likely to harm any of the functions concerned with this type of regulatory activity.

The information we hold in relation to your request includes materials which form part of our inspection quality assurance process, as set out in our published inspection handbook<sup>2</sup>. We consider disclosure of such materials would prejudice the quality assurance process and undermine the standing of the final reports.

We also hold a small amount of information relating to complaints about the schools within the pre-inspection material and the briefing presentation on Steiner schools, and disclosure of this would be likely to discourage parents and other interested parties from providing such information to Ofsted and the DfE. This would prevent the DfE from using complaints information as valuable intelligence for their decision making as to when to commission inspection of independent schools.

Finally, in the case of the briefing presentation on Steiner schools; some slides consist of directions to inspectors about how to carry out their work such as particular areas of focus. These slides are still in use and continue to influence current inspection activities. Publicly sharing these particular slides would impact on Ofsted's inspection work as schools may use this to try to artificially present themselves to inspectors, based on their interpretation of what they consider inspectors are looking for. This would make it more difficult for inspectors to

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<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2000/36/section/31>

<sup>2</sup> <https://www.gov.uk/government/publications/non-association-independent-school-inspection-handbook-from-september-2015> (page 29)

accurately assess the performance of schools as they truly are, particularly when not all school leaders may have accessed the materials. Disclosure of this material would undermine these ongoing inspections.

As set out above, we consider that disclosure of this information is likely to prejudice our inspection functions. This would subsequently have a negative effect on the DfE's ability to take regulatory action against independent schools, where necessary. We are satisfied the conditions for use of section 31 apply.

As section 31 is a qualified exemption, we must consider where the greater public interest lies. Our inspection activities are used to advise the Secretary of State for Education about an independent school's suitability for continued registration. This includes advising them of any concerns which inspectors have found evidence to verify.

We consider disclosure of information that may negatively impact on our ability to conduct inspections to support necessary regulatory decision making by the DfE would not be in the public interest.

Our conclusion is that the public interest in favour of withholding the information strongly outweighs that in favour of disclosure at the current time. We have therefore removed complaint and quality assurance materials, and some information from the presentation, from the information we are disclosing to you.

### **Section 40(2)<sup>3</sup>**

We consider that the exemption at section 40(2) of the FOI Act also applies to some of the information we hold, where this is personal data. Personal data is defined, within the GDPR, as being:

*"any information relating to an identified or identifiable natural person [...] who can be identified, directly or indirectly [...]"*.

Section 40(2) of the FOI Act sets out a number of conditions which, if they apply to the personal data, mean that it cannot be disclosed to the public.

The first such condition is where disclosing the personal data to the public "would contravene any of the data protection principles". This condition is relevant to this request. The data protection principles, as set out in Article 5(1) of the GDPR, require that personal data shall be processed lawfully, fairly and in a transparent manner. If no lawful basis can be found, then our processing will contravene this principle. To process personal data fairly, Ofsted must only handle it in ways that

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<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/40>

people would reasonably expect; and not use it in ways that have unjustified adverse effects on them.

We have redacted a small amount of personal data from the pre-inspection materials as it identifies individuals, including inspector contact details and a breakdown of roles with inspections, including who they met. We have also removed the names and contact information for most Ofsted and DfE staff from disclosed materials. These staff would not expect their personal data to be made public and it would be unfair to do so.

Finally, there is personal data within the complaints' information. Those individuals who raise concerns about particular schools share personal information about themselves, their children and their circumstances. Even by disclosing the nature of the concerns it is possible that individuals connected within the complaint or the school communities could be identified. None of these individuals would have any expectation such information would be made public, particularly where this is information about children, and potentially sensitive.

Ofsted has a legal obligation to ensure that it processes personal data in line with the data protection principles set out under the GDPR; we believe that disclosure of this personal information would be in contravention of those principles as disclosure would not be "fair". Taking these factors into account we are content that the exemption at section 40(2) of the FOI Act applies; therefore, this personal information has been removed from the information we are providing to you.