



Education & Skills
Funding Agency

Education & Skills Funding Agency
Sanctuary Buildings
Great Smith Street
London
SW1P 3BT
Tel: 0370 000 2288
<http://www.gov.uk/esfa>

15 November 2019

Our reference: 2019-0038364

J Downs

Via email: request-613458-0ea892a2@whatdotheyknow.com

Dear Ms Downs

Thank you for your request for information, which was received on 18 October 2018. You requested a copy of the completed independent investigation commissioned by Thrive Partnership Academy Trust (Thrive PAT). If the independent investigation has not been completed, then you requested to know the expected date of completion.

Thrive PAT commissioned two independent investigations into the alleged conduct of the trust's former Chief Executive Officer (CEO) and Executive Principle (EP). The Department holds the completed independent investigation for the trust's former CEO. However, we do not hold the completed independent investigation for the trust's former EP.

The Department is withholding the completed independent investigator for the Thrive PAT's former CEO because the following exemptions apply to this information:

Section 31 – Law Enforcement

The exemption at Section 31 of the Act provides that information is exempt as its disclosure would, or would be likely to, prejudice the exercise of any public authority of its functions. The relevant area for this exemption is Section 31(1)(g): the exercise by any public authority of its functions for any of the purposes specified in subsection 32(2).

The section 31(2) purposes we are applying are:

- b) The purpose of ascertaining whether any person is responsible for any conduct which is improper
- d) The purpose of ascertaining a person's fitness or competence in relation to the management of bodies corporate or in relation to any profession or action activity which he is, or seeks to become, authorised to carry on

- f) The purpose of protecting charities against misconduct or mismanagement (whether by trustees or other persons) in their administration

The exemption in Section 31 is qualified and must be subject to a public interest test. In making these considerations we have determined that it is in the public interest to not disclose this information at this point.

There is a strong public interest in transparency where there is a suspicion of wrongdoing in the public domain. Where there is an independent investigation, the outcome of this may indicate whether there is any substance to the allegation of wrongdoing. The disclosure of the outcome of any independent investigation serves the wider public interest. Furthermore, we acknowledge there is a public interest in ensuring there is proper conduct by those in positions of trust, those in public offices, and those who act as role models to children. Promoting greater accountability will ensure a higher degree of scrutiny and help drive improvements in the independent education sector.

However, any disclosure of information provided in confidence may have extremely serious consequences in terms of the general willingness of individuals to supply information. Disclosing this information would be likely to seriously hinder the Department's future efforts in the prevention and intervention in serious misconduct within the independent education sector. Furthermore, the Department will apply scrutiny to the independent investigation and, where there is evidence to support it, we will undertake all relevant and proportionate action.

At this point, we have determined that it is in the public interest to not disclose this information as the Department is scrutinising the completed independent investigation. Additionally, disclosing information supplied to the Department in confidence would be likely to prejudice the Department's future efforts in the prevention and intervention in serious misconduct.

Section 40(2) – Personal information

We have applied section 40(2) (personal data) because the information in question includes 3rd party personal data. Personal data is that which relates to a living individual who can be identified from that data, or from that data and other information, which is likely to be in, or to come into, the possession of the requester. Disclosure of this information would be considered unfair under Data Protection Act / General Data Protection Regulation 2018. By that, we mean the likely expectations of the data subject that his or her information would not be disclosed to others and the effect which disclosure would have on the data subject. Section 40(2) is an absolute exemption and is not subject to the public interest test

Section 41 – information provided in confidence

The exemption in section 41 of the Act provides that information is exempt where it is obtained by the public authority from any other person, and where its disclosure would give rise to an actionable breach of confidence. It is our view that this information contains that quality of confidence, and that it was provided to us in circumstances where there was an explicit or implied obligation of confidence. The section 41 exemption is therefore engaged.

While the exemption at section 41 is an absolute exemption and does not require consideration of the public interest test, its application is subject to public interest considerations which apply to the law of confidence. In making these considerations we have determined that disclosure may undermine the principle of confidentiality, by inhibiting the sharing of confidential information.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications.

If you are unhappy with the way your request has been handled, you should make a complaint to the Department by writing to me within two calendar months of the date of this letter. Your complaint will be considered by an independent review panel, who was not involved in the original consideration of your request.

If you are not content with the outcome of your complaint to the Department, you may then contact the Information Commissioner's Office.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Judy Anckorn', with a long horizontal flourish extending to the right.

Judy Anckorn

Deputy Director – Academies South Central and East