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26 April 2013

B Ryan

Our Reference: CAS-253392-4RY1HJ

By email: request-154950-7b773d98@whatdotheyknow.com

Dear B Ryan

Your request for information

Thank you for your email of 27 March 2013. You have requested the following information:

- All additional guidance issued to inspectors (both HMI inspectors and additional inspectors) that has not been published on the OFSTED website, with regards to all aspects of inspection under the most recent OFSTED framework

Summary of response

We hold a number of unpublished guidance documents and training materials and we are disclosing these to you with only a small amount of personal data removed.

This decision is explained below.

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 or not we hold information of the description set out in your request. I can confirm that we hold a number of guidance documents which we have not published on our website. These include seven updates which were sent periodically to inspectors as refinements were made to the framework and inspection process, exemplar inspection reports and the process to be followed in the event that inspectors suspect or observe criminal activity (including safeguarding concerns) during an inspection. We also hold

a summary of materials used to provide training to inspectors in relation to mathematics and literacy, and the materials themselves.

Under the FOI Act, We are under a duty to provide you with all the information we hold which falls within the scope of your request, provided it is not 'exempt' information.

We are releasing all of the information within the scope of your request to you, with the exception of a small amount of personal data, which we have concluded is exempt from disclosure.

Exempt Information

Section 2(2) of the FOI Act describes circumstances in which information is 'exempt' and therefore does not have to be provided in response to a request.

In this case we consider that information about characteristics and attainment of small cohort groups, contained within the training presentation on literacy is personal data about those individual pupils which is exempt from disclosure to the public under section 40(2) of the FOI Act. In addition, we believe that the exemption applies to a small amount of information about Ofsted staff, contained in an email about inspector training and the associated training materials, and also to some information evaluating pupils and teachers who feature in videos used for the mathematics training.

Section 40(2) states that information is exempt from the requirement to disclose under the FOI Act if it satisfies the following criteria:

1. it is personal data about a third party (Section 40(2)(a)); and
2. its disclosure *to the public* would contravene any of the data protection principles (Section 40(2)(b) and 40(3)(a)(i)). The data protection principles are set out in Part 1 of Schedule 1 of the DPA.

Information about characteristics and attainment of small cohort groups, the performance of pupils and teachers, and the details of Ofsted staff are personal data about those individual pupils, as are the details of staff, so the first criterion is satisfied.

The first data protection principle requires that any processing of personal data, including disclosure, is *fair* and *lawful* and meets relevant conditions from schedules 2 and 3 of the DPA. Disclosure can be considered to be *fair* if the individual to whom the personal data relates ("the data subject") has consented to the disclosure or has a reasonable expectation that their information will be disclosed to the public, or if the disclosure is otherwise reasonable in the circumstances of the case.

The disclosure of information about small cohorts would cause unwarranted harm to individual pupils who may be able to be identified, as it would breach their right to privacy and may also cause embarrassment if, for example, it is possible to discern from the data that a particular individual has not had good attainment.

Some of the slides for the mathematics training contain evaluation of pupils and teaching staff who feature in the videos used for this training. Although the videos are publicly available, the participants are unlikely to have expected that evaluations of their performance by Ofsted inspectors would be disclosed to the public. In the case of teaching staff, disclosure of this information has the potential to adversely affect their employment or their reputations.

In addition, the individuals who were involved in presenting the training would not have the reasonable expectation that their details would be made public.

In all cases, the disclosure of the personal data would be unfair and thus contrary to the first data protection principle, and so the exemption at section 40(2) applies.

We have therefore removed the personal data from the information that we are disclosing to you.

Please find enclosed the following:

- Seven inspector updates and associated materials
- Guidance on responding to possible criminal activity
- Materials from literacy and mathematics training

Unfortunately, the main presentation from the mathematics training is too large to send electronically. If you would care to supply a postal address, we would be happy to send it to you in hard copy.

I trust that this letter clearly explains our decision. If you have any queries about our response, please contact me at 0300 013 0170 and I will do my best to address them.

Alternatively, 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@ofsted.gov.uk or write to:

Head of Information Rights
Commercial Services Division
Ofsted
Aviation House
125 Kingsway
London
WC2B 6SE

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 or not we have complied with our obligations under the FOI Act with respect to your request. The Information Commissioner can be contacted at:

FOI Case Reception Unit
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,

A handwritten signature in dark ink, appearing to read "James Norman".

James Norman
Information Management Advisor
Commercial Services