

Your complaints concerning West Cheshire College (the College)
Our references: FS50488835 (request dated 10 December 2012) and
FS50488836 (request dated 3 January 2013)
The Freedom of Information Act (the FOIA)

I refer to my attached email dated 4 June 2013 and write to advise that I have now heard from [name removed] at the College.

[Name removed] has provided me with details of the searches and enquiries carried out by the College to identify and locate recorded information falling within the scope of your above two requests and has confirmed that no further information is held apart from that already disclosed.

Specifically, [name removed] has pointed out that upon receipt of your requests the College undertook a keyword search on the following archives:

- Physical Document Storage
- Archived document store
- West Cheshire College website search
- Current Email
- Archived Email from backup

The College has confirmed that the digital and physical archives, the property of West Cheshire College, as well as live email and documents were searched for content that might contain references to the keywords used in the requests. All documents identified and returned were reviewed for relevancy at the time of the request.

FS50488836 (request dated 3 January 2013)

I note from your email dated 3 June 2013 that the only outstanding issues in respect of this complaint is the College's response to questions 1 and 3 of your request dated 3 January 2013. I confirm that the scope of my investigation will be limited to these issues.

In relation to questions 1 and 3, the College has provided details of the searches and enquiries it carried out (as described above) and has reiterated that it does not hold any recorded information falling within the scope of your request.

As you are aware a public authority is not required to create new information to answer a question or give an opinion or judgment that was not already recorded.

You will recall that in my email dated 30 May 2013 I pointed out that in cases such as yours, where there is a dispute as to the extent of information held in a recorded format falling within the scope of a request, the Commissioner will make a decision based on a balance of probabilities as opposed to absolute certainty.

In [Linda Bromley & Others v Information Commissioner and Environment Agency \[EA/2006/0072\]](#) ("Bromley"), the Information Tribunal confirmed that the test

for establishing whether information was held by a public authority was not one of certainty, but rather the balance of probabilities.

The standard of proof has been recently confirmed by the Tribunal decisions of [Edwards v Information Commissioner \[EA/2010/0104\]](#), [Innes v Information Commissioner \[EA/2009/0046\]](#), [Thompson v Information Commissioner \[EA/2011/0144\]](#), [Parker v Information Commissioner \[EA/2011/0283\]](#) and [Oates v Information Commissioner \[EA/2011/0138\]](#).

In the above decision of [Oates v Information Commissioner \[EA/2011/0138\]](#) the Tribunal stated that: 'As a general principle, the (Commissioner) was, in the Tribunal's view, entitled to accept the word of the public authority and not to investigate further in circumstances, where there was no evidence as to an inadequate search, any reluctance to carry out a proper search or as to a motive to withhold information actually in its possession. Were this to be otherwise the (Commissioner) with its limited resources and its national remit, would be required to carry out a full scale investigation, possibly onsite, in every case in which a public authority is simply not believed by a requester'.

The FOIA and the EIR are not concerned with the veracity or accuracy of recorded information held, only whether such information exists.

Based on the comments and arguments provided by the College so far, the Commissioner will very probably conclude that it does not hold any further recorded information falling within the scope of your requests based on a balance of probabilities.