

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2012

Public Authority: Wigan Metropolitan Borough Council
Address: Town Hall
Library Street
Wigan
WN1 1YN

Decision (including any steps ordered)

1. The complainant requested information relating to a company which undertakes particular roles at Leigh Sports Village. Wigan Metropolitan Borough Council failed to respond to the request.
2. The Commissioner's decision is that the council failed to respond to the request and therefore breached its obligations under section 1 and 10 of the Freedom of Information Act 2000 ("the FOIA").
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the request for information
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 8 August 2011, the complainant wrote to the council and requested information in the following terms:

"...I would like to be provided with the following under Freedom of Information legislation:

- 1. Copies of the procurement process for establishing a management and operations company to operate the Council's asset at Leigh Sports Village, which I believe is required under the LGA and the Council's own Contract Procedure Rules. If no OJEU (or similar) procurement process was entered into, then I would like to have the documents that set out why the council considered this was unnecessary;*
- 2. Copies of the declarations of interest required under Policy D3.1 et seq. of the Council's Financial Procedure Rules within the Council's constitution, relating to the Council employing its retiring Chief Executive as Chairman of LSV Ltd;*
- 3. Details of how the above appointment came to be made in terms of: advertising for candidates and job description; and details of what publications the appointment was advertised in along with its job description and specification, having regard to the requirement for best value and to securing a candidate with previous experience at facilities and operations management;*
- 4. Details of how the positions of Chief Executive, Operations Director and Finance Director at LSV Ltd were advertised, as set out in (3), above;*
- 5. Details of LSV Ltd's procurement process for services on the site, including the provision of on-site security, in terms of how best value was obtained for the tax payer. In addition I would like confirmation or otherwise as to whether the principal(s) or other officers of the security services company actually engaged had any personal relationships or friendships with any LSV or other council officials.*
- 6. A copy of the Management Agreement, lease or whatever form the contract may take between the Council and LSV Ltd that outlines the company's roles and responsibilities in managing the Sports Village and terms of appointment, along with the plan that shows the area of the company's responsibility*
- 7. Details of the salaries of LSV Ltd staff that have and are being borne by the Council including details of the AGMA pension schemes in operation; and*
- 8. Details of the annual income generated by the LSV Ltd through fixtures and ancillary events at the Sports Village that will service to offset the cost to the Council."*

6. The council acknowledged receipt of the request on 16 August 2011. It said that it would respond as soon as possible and no later than by 30 August 2011. Despite further reminders from the complainant and the Commissioner, no response to the request was provided.

Scope of the case

7. The complainant contacted the Commissioner to complain about the council's failure to respond to his request for information.

Reasons for decision

8. Section 1 and 10 of FOIA provide a general right of access to recorded information held by public authorities. These sections provide that when a written request for information is made, the public authority must state whether it holds that recorded information within 20 working days. If it does, it must provide that information within 20 working days unless a valid reason for not doing so exists under the FOIA. If such a reason does exist, a refusal notice should be issued in accordance with section 17 of the FOIA, again within 20 working days.
9. By failing to respond to the request at all, the public authority breached section 1 and 10 of the FOIA.

Other matters

10. The Commissioner was particularly concerned by the excessive nature of the delay that the complainant experienced in this case, particularly as this was despite reminders being sent both by the complainant and then the Commissioner. It appears that the council made no proactive attempts to keep either the complainant or the Commissioner informed in relation to this ongoing delay and when questioned about it, the council was unable to provide an explanation other than to comment that the relevant department had simply not responded. This is clearly not within the spirit or the letter of the FOIA and may be indicative of underlying issues that the authority needs to address such as inadequate resources or staff training. The Commissioner trusts that the authority will carefully consider this and ensure that it makes appropriate improvements in the future.

Right of appeal

11. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

12. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Information Tribunal website.
13. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Andrew White
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