

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 29 September 2011

**Public Authority:** Bolsover District Council  
**Address:** Sherwood Lodge  
Bolsover  
Derbyshire  
S44 6NF

### Decision

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1. The complainant has requested the following information:
  - An application form for a Disability Facilities Grant and a copy of the relevant application criteria/guidance.

Bolsover District Council (the "Council") initially dealt with the request 'as normal business', providing the complainant with advice about how to apply for a Disability Facilities Grant. The Council subsequently provided the complainant with the requested information.
2. The Information Commissioner's (the "Commissioner") decision is that the Council has breached section 10(1) of the FOIA by failing to provide the complainant with the requested information within 20 working days. The Council subsequently provided the complainant with the information in the form specified in their original request and, in doing so, complied with the duty set out under section 11(1) of the FOIA.
3. The Commissioner requires no steps to be taken.

## Request and response

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4. On 13 February 2011, the complainant wrote to the Council and requested information in the following terms:

“Will you please send me an Application Form for a mandatory Disability Grant for adaptations to my home with the criteria to apply.”

The complainant stated that they wanted the information to be provided in large print font, in accordance with their disability needs.

5. The Council responded on 16 February 2011 and advised the complainant of the procedure for applying for a Disability Facilities Grant.
6. On 13 April 2011, following further correspondence, the Council provided the complainant with the requested information in the specified font size.
7. In a letter received by the Council on 4 May 2011, the complainant explained that, as a result of their disability, they were unable to view the information in the A3 format provided. On 31 May 2011, the Council provided the information in the complainant’s preferred, A4 format.
8. On 10 July 2011 the complainant wrote to the Council and complained that they had not been provided with all the requested information and that some of the provided information was illegible.

## Scope of the case

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9. The complainant contacted the Commissioner to complain about the Council’s ongoing failure to provide the requested information in his preferred format.
10. The Commissioner has restricted the scope of his investigation to consider the Council’s duty under the FOIA to provide the information requested, in the complainant’s preferred format, in 20 working days.

## Reasons for decision

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11. Section 10(1) provides that a public authority in receipt of a request for information should comply with the request within 20 working days.

12. Section 11(1) states that a public authority should (so far as reasonably practicable) give effect to an applicant's preference for the means by which requested information should be communicated.
13. In this case, the complainant's initial request specified that their preference was for the information to be communicated in 18 point font format. The public authority provided the information in this format, however, as a result of initially handling the request as normal business, it failed to do this within 20 working days.
14. Subsequent to being provided with the information in their specified, preferred form, the complainant asked the Council to re-issue the information in a further, different format.
15. Although section 11(1) states that a public authority should consider the applicant's preference for the method by which the information is communicated, the public authority is only obliged to do so when this preference is expressed, "on making the application."
16. As the complainant made no further specific request at the outset, the Commissioner is of the view that, in its initial response, the Council had fulfilled its duty under section 11(1) and was under no obligation to reconsider the way it presented the information or to comply with the complainant's subsequent requirements.

## **Other Matters**

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17. Although they do not form part of this decision notice, the Commissioner would like to highlight the following areas of concern.
18. The limits of the duty under section 11(1) of the FOIA do not prevent public authorities from any duty to make special arrangements for people with disabilities under the Equality Act 2010.
19. Whilst it falls outside the scope of his regulatory remit, the Commissioner notes that, following its initial response, the Council went on to make attempts to honour the complainant's further requirements in this regard.
20. The introduction to the code of practice issued under section 45 (the "code") of the FOIA states:

"All communications in writing to a public authority, including those transmitted by electronic means, may contain or amount to requests for information within the meaning of the Act, and so must be dealt with in accordance with the provisions of the Act. While in many cases such requests will be dealt with in the course of normal business, it is

essential that public authorities dealing with correspondence, or which otherwise may be required to provide information, have in place procedures for taking decisions at appropriate levels, and ensure that sufficient staff are familiar with the requirements of the Act and the Codes of Practice issued under its provisions. Staff dealing with correspondence should also take account of any relevant guidance on good practice issued by the Commissioner. Authorities should ensure that proper training is provided in this regard.”

21. Although the introduction does not form part of the code itself, the Commissioner would echo its recommendations. The Commissioner notes that the line between enquiries to public authorities which can be dealt with as ‘normal business’ and requests which should be handled under FOIA can often be blurred. However, the Commissioner expects that, in future, the Council will ensure that requests for information receive prompt responses.

## Right of appeal

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22. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

23. 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.
24. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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**SK9 5AF**