

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 9 July 2014

**Public Authority:** Newcastle City Council  
**Address:** Civic Centre  
Newcastle-upon-Tyne NE99 2BN

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to funding for community buildings.
2. The Commissioner's decision is that Newcastle City Council (NCC) has breached sections 1, 10 and 17 of the FOIA.
3. The Commissioner requires NCC to provide the remaining information requested as detailed in the request of 12 August 2013, specifically the information from 2010/2011 and 2011/2012 or issue a refusal notice in accordance with FOIA stating why it cannot provide the 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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

**Request and response**

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5. On 12 August 2013, the complainant wrote to NCC and requested information in the following terms:

*"Could you please supply the following information concerning funding identified as Community Buildings, preferably in tabular form.*

*For the financial years 2010/11, 2011/12, 2012/13 and 2013/14 identify each of the Community Buildings in each of the City Wards that received funding from the Newcastle fund (now delegated to Ward budgets) and the amounts each of the buildings received (£). Obviously for 2013/14 this may/will only be a totalled figure given to each Ward*

Ward	Name of building	Funding 10/11	11/12	12/13	13/14	delegated to Ward
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6. NCC responded on 30 August 2013 and provided some information within the scope of the request. It also provided a link to its website.

7. On 2 September 2013 the complainant wrote to NCC stating:

*"Further to your reply below I wish you to carry out an internal review of the decision.*

*Having followed the link you gave me, in your reply of 30th August, I was unable to find the earlier years requested in my original reply.*

*<http://www.newcastle.gov.uk/benefits-and-council-tax/grants/newcastle-fund>*

*We are committed to being open in our grant process, so you can look at details of previous applicants to the Newcastle Fund below:*

- *Download details of all applicants to the Newcastle Fund Round 3 (pdf, 31Kb).*
- *Download details of successful applicants to the Newcastle Fund Round 3 (pdf, 32Kb)*
- *Download details of successful applicants to the Newcastle Fund Round 2 (pdf, 27Kb).*

*The round 2 covers from 2012/13 and not the earlier years. The figures in round 2 also include other figures in the "community building core costs"(total £209,500), hence the request to identify the buildings and Ward as some buildings have been excluded from the 13/14 calculations but I am unable to confirm this without the earlier Ward based buildings figures. This will have an impact when looking at earlier years.*

*I am unsure from the figures below if there is a typo or do you mean the 2012/13 and 2013/14 figures are the same? I presume they are but can you confirm the table. That being the case what has happened to the other*

*"Community Building Core Costs" identified in Round 2?*

*Although you have not raised this, I realise that the source of the monies for 10/11 may not have been the "Newcastle Fund" but its predecessor for Community Buildings funding.*

8. In correspondence with the Commissioner NCC confirmed that it did not carry out an internal review.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 11 November 2013 to complain about the way his request for information had been handled.
10. The Commissioner contacted NCC on 19 November 2013 to advise the complainant was awaiting the outcome of internal review. On 15 January 2014 the complainant contacted the Commissioner again as he had not received a response to his request for internal review.
11. The Commissioner considers the scope of this case to be to determine if NCC has dealt with the request correctly and consider NCC's compliance with its obligations under the FOIA.

### **Reasons for decision**

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12. Section 17(1) states:

*(1) A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which—*

*(a) states that fact,*

*(b) specifies the exemption in question, and*

*(c) states (if that would not otherwise be apparent) why the exemption applies.*

13. In order for NCC to have complied with this section if it did not intend to provide the requested information, NCC acknowledged its response should have cited section 21 (information accessible by other means) as the exemption it wished to apply. It provided the Commissioner with a

link to where the requested information could be found. However on reviewing the information contained in this link the Commissioner notes that it does not appear to include the information for the earlier years requested by the complainant. Therefore it is not possible to establish if the council could have legitimately applied section 21 at the time of the request. Nevertheless, the Commissioner does find that NCC has breached section 17(1). Section 1 of FOIA states that:

*“Any person making a request for information to a public authority is entitled – (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and  
(b) if that is the case, to have that information communicated to him.”*

14. Section 10(1) of the FOIA requires that a public authority must provide a substantive response within the time for compliance, which is 20 working days following the date of receipt.
15. As NCC failed to communicate the information requested it is in breach of section 1(1)(b). It therefore follows that NCC has also breached section 10 of the FOIA, by failing to provide the requested information within the 20 working days allowed.
16. The Commissioner has recorded these breaches accordingly.

### **Other matters**

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17. The Commissioner feels it necessary to comment on the lack of engagement by NCC when he was conducting his investigation.
18. NCC's responses were vague and at times irrelevant to the complaint in question. In addition, the Commissioner considers the time taken by NCC to provide responses to be excessive. The Commissioner first began consideration of this case in April 2014. NCC's delayed responses have impacted on the time taken for the Commissioner to complete his investigation.
19. The Commissioner will continue to monitor NCC's engagement in future complaints and may consider if any formal action is required at a later date.

## Right of appeal

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20. 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: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.
22. 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** .....

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**