

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 January 2019

Public Authority: Norfolk County Council
Address: County Hall
Martineau Lane
Norwich
NR1 2DQ

Decision (including any steps ordered)

1. The complainant requested information regarding staffing and Special Educational Needs (SEN) provision.
2. The Commissioner's decision is that Norfolk County Council ("the Council") failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. As a response has now been provided, the Commissioner does not require any further steps to be taken.

Request and response

4. On 13 April 2018, the complainant wrote to the Council and attached a six-page survey containing numerous questions to which he sought answers under the FOIA. The Commissioner considers that it would serve no useful purpose to reproduce the request in this decision notice.
5. The Council responded to say that it required clarification as to the precise information that the complainant was seeking. When the complainant chased the request on 11 May 2018, the Council responded again three days later to say that it had not begun processing the request because it had not received the clarification it previously sought.
6. The complainant wrote again to the Council on 27 July 2018. He challenged the Council's argument that it required further clarification of the request, although he did provide some further information.

7. The complainant chased a response again on 17 August 2018.

Scope of the case

8. The complainant contacted the Commissioner on 6 September 2018 to complain about the failure, by the Council, to respond to the request.
9. In line with her usual practice, the Commissioner contacted the Council on 4 October 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days.
10. Whilst the complainant acknowledges that he has now received a response, he asked the Commissioner for a decision notice to record the late response formally.
11. The scope of this notice and the following analysis is to consider whether the Council has complied with Section 10 of the FOIA.

Reasons for decision

12. Section 1(1) of the 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.*

13. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

14. The Commissioner's guidance states that information requests can be submitted in the form of a questionnaire or survey – providing that the survey seeks information held in recorded form¹. She therefore considers that the request in question fulfilled these criteria and so constituted a valid request for recorded information under the FOIA.
15. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
16. Section 1(3) of the FOIA states that:

Where a public authority—

 - (a) *reasonably requires further information in order to identify and locate the information requested, and*
 - (b) *has informed the applicant of that requirement,*

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.
17. The Council argued initially that part of the request was unclear and it therefore required further clarification from the complainant. The complainant has argued that his request was clear from the outset.
18. The Council wrote to the Commissioner on 22 October 2018 to say that it had now responded to the request – although the complainant has informed the Commissioner that he did not receive a copy of the response until 15 November 2018.
19. Given that, by its own admission, the Council had not responded to the request within 20 working days of the complainant providing further information, the Commissioner considers that it would serve no useful purpose to determine whether the original request required clarification, as it would not affect her determination of a breach.
20. From the evidence presented to the Commissioner in this case, it is clear that the Council failed to respond to the request within the timescales set down by the FOIA and has therefore breached Section 10 of the FOIA.

¹ <https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

Right of appeal

21. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

22. 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.
23. 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

Ben Tomes
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Water Lane
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