

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 April 2012

Public Authority: Sheffield City Council
Address: Chief Executive Directorate
Town Hall
Sheffield
South Yorkshire
S1 2HH

Decision (including any steps ordered)

1. On 26 November 2011 the complainant requested the names of two leaseholder members of an advisory group and a record of their attendance at advisory group meetings.
2. Although the council subsequently disclosed the information to the complainant it did so outside of the 20 working day period required by the Act. The Commissioner's decision is therefore that Sheffield City Council breached section 10(1) of the Act.
3. However the Commissioner does not require the public authority to take any steps.

Request and response

4. On 26 November 2011 the complainant wrote to Sheffield City Council and requested information in the following terms:

"On 25 November, at the Gleadless Valley Community Hall, you gave a presentation.

In that presentation you said that there were two leaseholder members of the Advisory Group.

Who are those two members, and what is their record of attendance at Advisory group meetings?"

5. The council responded to this request on 23 December 2011. It stated that it would need to ask the representatives whether they objected to their details being disclosed to him before they could disclose the information.
6. Following the complainant's complaint to the Commissioner the council wrote to the complainant on 6 February 2012. It stated that it recognised that the response did not meet with the time requirements required by the Act. It also explained that after reviewing its decision it had now decided that the information should have been disclosed to him. It therefore disclosed the information to the complainant.

Scope of the case

7. The complainant contacted the Commissioner on 23 December 2011, after he had received the letter from the council informing him that it was asking the individuals if they objected to the disclosure of their information. He complained about the way his request for information had been handled.
8. The Commissioner wrote to the council and asked it to respond to his request on 19 January 2012. He also wrote to the complainant on the same day explaining what he had done. He explained that he does not normally issue a decision notice in such cases as public authorities generally respond to the Commissioner's request to respond without the need for one, thereby informally resolving the complaint. The complainant however wrote back on 20 January 2012 stating that wanted a decision notice to be issued.
9. The council subsequently responded to the Commissioner on 1 February 2012 stating that it recognised that it had made an error and that after considering the request again in had decided that the information could be disclosed to the complainant. It then disclosed the information to the complainant on 6 February 2012.
10. The Commissioner therefore considers that the complainant wishes a decision notice stating that the council breached the Act in failing to provide a response to the complainant within the time requirements stipulated by section 10(1) of the Act.

Reasons for decision

11. Section 10 of the Act states that

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

12. The complainant made his request for information on 26 November 2011.
13. The council's initial response of 23 December 2011 simply stated that it needed to ask the individuals on the advisory group whether they objected to the disclosure or not. The letter was not a refusal notice because it did not meet the requirements of section 17 of the Act. It did not provide a decision as to whether the information could be disclosed and did not state an exemption it was relying upon to withhold the information.
14. The letter also did not ask the complainant to clarify his request, or explain anything other than that it needed to ask the individuals involved for their consent. It also did not state that the council required further time to consider the public interest. The letter did not therefore state any of the reasons for delaying issuing a refusal notice which are specified within the Act.
15. The Commissioner is therefore satisfied that the response 23 December 2011 was not a properly formulated refusal notice for the purposes of the Act.
16. The Commissioner notes, in any event, that that response in itself was issued outside of the 20 day period required by the Act. Even if the response had been a valid refusal notice on that date, and without the further delays, that response would have been in breach of section 10(1) of the Act.
17. The council's final response, disclosing the information to the complainant and recognising that its initial response was not correct was not sent until 6 February 2012.
18. The Commissioner's decision is therefore that the council breached section 10(1) of the Act.
19. Although the Commissioner's decision is that the council breached the Act in this instance there are no steps which the Commissioner could now order the council to take in this decision notice. The council has disclosed the requested information to the complainant and recognised that its initial response did not meet with the requirements of the Act.
20. However the Commissioner monitors public authorities' compliance with the Act generally and can take action separately if he recognises an authority is systematically failing to meet its obligations in this respect.

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

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

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

Andrew White
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