

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 12 July 2018

**Public Authority:** Newcastle City Council  
**Address:** Civic Centre  
Newcastle upon Tyne  
NE1 8QH

#### Decision (including any steps ordered)

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1. The complainant requested a copy of a report on a previous data breach.
2. The Commissioner's decision is that Newcastle City Council ("the Council") failed to respond to the request within 20 working days and has therefore breached Section 10 of the Freedom of Information Act ("the FOIA").
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. The Council 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 FOIA and may be dealt with as a contempt of court.

#### Request and response

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5. The complainant has written to the Council and requested information in the following terms:

*"I would like a copy of the report written by the council into the data breach last year at the adoption services."*
6. The Council acknowledged the request on 26 April 2018 but had failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 11 June 2018 to complain about the failure, by Newcastle City Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 27 June 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. As the response to this request remains outstanding, despite her intervention, the Commissioner is of the opinion that a decision notice, considering the Council's compliance with Section 10 of the FOIA, is appropriate in this case.

## Reasons for decision

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10. 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.*

11. 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.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
13. 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.*"

14. From the evidence presented to the Commissioner in this case, she has been unable to establish definitively the date on which the request was made.<sup>1</sup> However, she considers this to be immaterial: the Council acknowledged the request on 26 April 2018 and did not respond within 20 working days of that date. Therefore the Council has breached Section 10 of the FOIA.

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<sup>1</sup> The copy of the request which was supplied to the Commissioner appears to have been made via an online portal and is undated.

## Right of appeal

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

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

16. 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.
17. 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  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**