

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 July 2016

**Public Authority:** Doncaster Metropolitan Borough Council

**Address:** Civic Office  
Waterdale  
Doncaster  
DN1 3BU

#### Decision (including any steps ordered)

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1. The complainant has made a request to Doncaster Metropolitan Borough Council ("the Council") for two documents referenced in the 2014-2015 annual report of the Doncaster Safeguarding Children Board ("the Board"). The Council responded that it did not hold the information for the purposes of the Freedom of Information Act ("the Act"). The complainant disputed the Council's position.
2. The Commissioner's decision is that the Council does not hold the information for the purposes of the Act.
3. He does not require any steps to be taken.

#### Request and response

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4. On 4 November 2015 the complainant requested information of the following description:

*1) A copy of the Lessons Learned review into Child Sexual Exploitation by the Doncaster Safeguarding Children Board.*

*2) A copy of the Serious Case Review into Child Sexual Exploitation by the Doncaster Safeguarding Children Board.*

*3) Copies of any other documentation relating to reviews into Child Sexual Exploitation by the Doncaster Safeguarding Children Board.*

*The documents are referred to in the Doncaster Safeguarding Children Board Annual Report on page labelled 4 of this document*

*(<http://doncaster.moderngov.co.uk/documents/s4170/051115%20HWB%20i10%20DSCB%20Annual%20Report.pdf>)*

5. On 17 November 2015 the Council provided a response. It refused to disclose information in respect of parts 1) and 2) of the request on the basis that it was not 'public information', and disclosed held information in respect of part 3).
6. The complainant requested an internal review on 18 December 2015.
7. The Council sent the outcome of its internal review on 31 December 2015. In this the Council maintained its original position.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 4 January 2016 to complain about the way his request for information had been handled, and specifically whether the Council's response to parts 1) and 2) of the request was correct.
9. The complainant also queried the basis of the Council's response of 17 November 2015, in which the Council explained that it was responding 'on behalf of' Doncaster Children's Services Trust ("the Trust"). The complainant has asked the Commissioner whether the Trust is distinct from the Council for the purposes of the Act. The Commissioner will address this in 'Other matters', which does not form part of this decision.
10. The Commissioner therefore considers the scope of this case to be the determination of whether the Council has correctly responded to parts 1) and 2) of the request.

### **Reasons for decision**

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#### **Findings of fact**

11. The Board is classed as a 'Local Safeguarding Children Board' ("LSCB"). It is a requirement of section 13 of the Children Act 2004 that every local authority area establishes an LSCB. The statutory objectives and functions of LSCBs are provided by regulation 5 of the Local Safeguarding Children Boards Regulations 2006.

## Section 1(1) – the duty to provide information upon request

### What information has been requested?

12. The Council has explained to the Commissioner that the request appears to have been made on a misunderstanding of the wording used on page 4 of the 2014-2015 annual report published by the Board, which outlines that:

*Good progress has been made in regards to Child Sexual Exploitation (CSE) workforce development, audit activity and the performance framework. The Board has undertaken a Lessons Learned review and a Serious Case Review. The learning from these reviews will be implemented in the coming year.*

13. The reference to "*Child Sexual Exploitation (CSE) workforce development*" is made as part of a list of areas in which the Board has made good progress. The two documents referenced in the sentence after this list (the "*Lessons Learned review*" and "*Serious Case Review*") do not relate to Child Sexual Exploitation (which is only one of four distinct areas of the Board's work). The Council acknowledges that this should have been clarified to the complainant in its responses, and also suggests that that the two documents are not therefore the subject of the request as it was worded.
14. The Commissioner considers that although the content of the two documents has been misunderstood by the complainant, the request clearly specifies that it seeks these two documents as they are referenced on page 4 of the annual report. The Commissioner will therefore consider whether these two documents, and the information contained within, are held by the Council.

### Is the information held by the Council for the purposes of the Act?

15. Section 1(1) provides 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.*

16. Section 3(2) provides that:

*For the purposes of this Act, information is held by a public authority if –*

- a) *it is held by the authority, otherwise than on behalf of another person, or*
- b) *it is held by another person on behalf of the authority.*

17. Where information is held by a public authority for its own purposes (or otherwise held by another person), that information is considered to be held by the public authority for the purposes of the Act.
18. The only circumstance in which information physically in its possession would not be held by a public authority is where the information is only held on behalf of another person, as defined by section 3(2)(a).

*The Council's position*

19. The Council has confirmed to the Commissioner that the two documents were commissioned and approved by the Board, which is a statutory body independent of the Council. Copies of these documents were provided solely to council officers who are members of the Board, and have not been circulated separately to other officers within the Council or partner organisations to the Council.
20. The Council understands that the Serious Case Review is awaiting publication by the Board (which is a requirement of its role). However there is no requirement to publish the Lessons Learned Review and any decision to do is at the discretion of the Board. Notwithstanding any issue of whether these documents will be published, the Council maintains that it holds neither for the purposes of the Act.

*The Commissioner's conclusion*

21. The Commissioner has previously found (in decision notice FS50368110) that the Board is a statutory body in its own right and not a public authority for the purposes of the Act. The nature and purpose of LSCBs have also been previously considered by the Commissioner in decision notices FS50448670 and FS50539851, in which he found that two other LSCBs were statutory bodies in their own right and not public authorities for the purposes of the Act.
22. In all three of these prior decision notices the Commissioner considered requests made to councils for information deriving from the relevant LSCB. In all cases, the Commissioner identified that the information, whilst physically held by the council, was not held for the purposes of the Act.
23. In the circumstances of this case, the information has been provided to council officers in their capacity as members of the Board. The information has not been provided to the Council as a public authority,

and has not been disseminated within the Council or to external organisations.

24. Having considered the circumstances of this case, in addition to the Commissioner's previous findings in similar cases involving information deriving from LCSBs, the Commissioner must conclude that the information is not held by the Council for the purposes of the Act.

### **Other matters**

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25. The Council has informed the Commissioner that it's response to the complainant's request was provided in conjunction with Doncaster Childrens' Services Trust ("the Trust"). This is because the Trust holds information on behalf of the Council.
26. In the circumstances of this case the Commissioner identified that the information request was made directly to the Council, and this decision is therefore limited to whether the Council has complied with the Act. Notwithstanding this, the Council has informed the Commissioner that it considers the Trust is a separate public authority under the Act, and would be responsible for complying with any request made to it for information that it holds in its own right.

## Right of appeal

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27. 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)

28. 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.
29. 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**  
**Cheshire**  
**SK9 5AF**