

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 July 2018

Public Authority: Kent County Council
Address: County Hall
Maidstone
Kent
ME14 1XQ

Decision (including any steps ordered)

1. The complainant requested information relating to an incident which had occurred at an educational establishment.
2. The Commissioner's decision is that Kent County Council ("the Council") failed to respond to the request within 20 working days and therefore breached Section 10 of the Freedom of Information Act ("the FOIA").
3. As a response has now been issued, the Commissioner does not require the Council to take any further steps.

Background

4. The request relates to an incident which resulted in a disciplinary sanction for a member of a trade union ("the union member"). The request was made by a union representative acting on behalf of the union member.
5. On 9 March 2018, the complainant wrote to a training provider and requested information in the following terms:

"I am writing to ask if you can make available to me any communications between yourselves and [the union member's employer], and any relevant reports, pictures or documents in regards to the events which occurred. This will enable me to support my member to appeal [his employer's] decision to issue him with a disciplinary sanction."

6. The training provider informed the complainant that the request should be made to the Council.

Request and response

7. On 19 March 2018, the complainant wrote to a specific officer of the Council and, referring to her earlier request, requested information in the following terms:

"I have been trying to contact someone who can help me with information regarding the incident [description of incident]. I believe you attended the incident and I would ask if you can make available to me any report you may have written regarding that visit.

"I would also ask if there is other information that you could make available to me regarding the incident and issues surrounding it, in terms of reports, photos or communications between [training provider] and [the union member's employer].

"I have a member who has been issued a disciplinary sanction and I would like to have the information to enable me to support him with an appeal."

8. The Council acknowledged the request on 20 March 2018 but had failed to provide a substantive response until 24 April 2018.
9. The complainant requested a review of the response because of the time taken to provide a substantive response. The Council provided the outcome of its review on 30 May 2018. It provided a detailed chronology of how the request had been handled and identified several delays. It also apologised for the delay in handling the request.

Scope of the case

10. The complainant contacted the Commissioner on 8 June 2018 to complain about the failure, by the Council, to respond to the request within the statutory period. Whilst she accepted that she had now been provided with a substantive response, she requested a decision notice to record the breach formally.
11. The scope of this decision notice is therefore to consider the Council's compliance 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 considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

15. Section 10 of the FOIA states that response 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. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached Section 10 of the FOIA.

Right of appeal

17. 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

18. 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.
19. 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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