

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 January 2019

Public Authority: Middlesbrough Council
Address: PO Box 500
Middlesbrough
TS1 9FT

Decision (including any steps ordered)

1. The complainant has requested information from Middlesbrough Council ("the Council") regarding a particular Remand Home in Middlesbrough.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached section 1(1)(a) and section 10(1) of the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOI, to the request
4. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 10 September 2018, the complainant wrote to the Council and requested information in the following terms:

"All complaints and investigations relating to Fernadale [sic] Road (Middlesbrough Remand Home) in the 1970's for Physical, Sexual and Mental Abuse of children.

All complaints and investigations into [Named person], a member of staff at the Ferndale [sic] Road (Middlesbrough Remand Home) in the 1970's for Sexual Abuse. [Named person] is now deceased.

All complaints and subsequent investigations relating to complaints I made to Social Services about Abuse I suffered whilst a resident at (Ferndale [sic] Road, Middlesbrough Remand Home) in the 1970's."

6. The Council is known to have received the request on 11 September 2018, as delivery was recorded on that date by the Royal Mail; in addition, the Council has confirmed subsequently to the Commissioner that it received the request.
7. The Council has not provided a response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 23 October 2018 to complain about the way his request for information had been handled.
9. The Commissioner contacted the Council on several occasions and was advised on 30 November 2018 that the requested information was being sent to the complainant.
10. The complainant contacted the Commissioner again on 4 January 2019 to advise that the Council had still not provided a response.
11. The Commissioner considers the fact that the response remains outstanding, despite her intervention, means that a decision notice is appropriate in this case.
12. The Commissioner considers that the scope of her investigation is to determine whether the Council has complied with section 1(1)(a) and section 10(1) of the FOIA.

Reasons for decision

13. Section 1(1) of 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."

14. Section 10 of the FOIA states that:

"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".

15. In this case the request was received on 11 September 2018 and the Council has failed to respond. From the evidence presented to the Commissioner in this case, in failing to provide a response within 20 working days, the Council has breached section 1(1)(a) and section 10(1).

Other matters

16. It appears, in this case, that some of the information requested by the complainant would be likely to comprise his own personal data and the Council should therefore consider his request under both the FOIA and under the Data Protection Act 2018.

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

Andrew White
Group Manager
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