

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 May 2014

Public Authority: Health and Safety Executive
Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant has requested information relating to Dangerous Building Report Forms. The Health and Safety Executive (HSE) failed to respond to this request within the timescale for compliance and therefore breached the requirements of section 10(1) of the FOIA. However, the HSE has now indicated it will be providing a response to this request and as such, at this time, the Commissioner does not require the HSE to take any further steps.

Request and response

2. On 25 February 2014 the complainant wrote to the HSE and requested information in the following terms:

"1) It is understood that the Health and Safety Executive, is responsible from legislation for ensuring that local authorities carry out and uphold their responsibilities for health and safety. Subsequent to the failure of Wyre Forest District Council to respond to the Dangerous Building Report Form – Ref. 58724, correspondence was forwarded to notify the Health and Safety Executive to the failure of Wyre Forest District Council to acknowledge or to respond to the Dangerous Building Report Form – Ref. 58724 forwarded to the Wyre Forest District Council 8 January 2014. Please could you provide a detailed and full explanation of why:

a) Correspondence forwarded to [name redacted], Disclosure Officer, the Health and Safety Executive, Midlands Division, 1 Hagley Road, Birmingham, 13 February 2014;

1) Failed to be acknowledged; and

2) Failed to receive any response;

b) No formal correspondence concerning this urgent matter and in response to this urgent notification has been received from any of the offices of the Health and Safety Executive.

2) Please could you provide a detailed list of the undertakings and procedures as required from statutory legislation and government requirements including the:

a) Dates on which the undertakings or procedures were undertaken, or should have been undertaken; and,

b) The name of the Health and Safety Executive officer responsible for the each of the undertakings or procedures;

These undertakings and procedures that would be required and/or necessary to be carried out by the Health and Safety Executive subsequent to their receipt to the various notifications concerning this Health and Safety concern and complaint.

3) Confirmation that the Health and Safety Executive carry responsibility to ensure, or are responsible for ensuring, that the Wyre Forest District Council, and or the appropriate Wyre Forest District Council officer with designated responsibility to the dealing with this Health and Safety Dangerous Building Report Form notification – Ref. 58734 would be required by law to respond according to government regulations and legislation and would be required by law to respond to the requirements as set out and required to be carried out by the Health and Safety Executive instead of and on behalf of the government;

a) In accordance to statutory legislation requirements;

b) In accordance to the requirements of the Health and Safety Executive, as a Health and Safety Code of Practice, statutory local authority Health and Safety Executive legislation or Code of Practice; or,

c) Any other requirement set out by the Health and Safety Executive, or the government of the United Kingdom;

d) In accordance to any other requirements, such as from International or European law.

4) Details of the statutory required lawful procedure and undertakings, including time limits and references to relevant Acts of Parliament and or Statutory Instruments, required to be undertaken as a statutory requirement by the Health and Safety Executive, in response to the receipt to the notification to the failure of a local authority to respond to a Dangerous Building Report Form notification;

5) Confirmation that the Health and Safety Executive have followed all of the statutory requirements subsequent to their initial notification to this matter, or from the time that they have been made aware or that they were aware to the prevailing dangerous situation, and or to the failure of Wyre Forest District Council to respond to the Dangerous Building Report Form – Ref. 58724;

6) Provision of full and complete details of any undertaking or procedure that would be required to be undertaken, or that would have been required to be undertaken in this matter, that was required to be undertaken by the Health and Safety Executive in law and as a statutory requirement or requirements and that has failed to be instigated, undertaken, or provided;

7) Provision of details to any time limits required from legislation or codes of practice for the Health and Safety Executive in dealing with notifications to the failure of a local authority to respond, or to the provision of any relevant local authority service;

8) The address of the Health and Safety Office/Department responsible for and that would be dealing with this matter;

9) The provision of the name of the Health and Safety Executive officer, responsible for the overall management of this notification and complaint;

10) Provision of any copies of documentation, correspondence, or communication details by any format, forwarded from the Health and Safety Executive, and received from the local authority the Wyre Forest District Council, since the Health and Safety Executive became aware to the formal Dangerous Building Report Form – Ref. 58724, or to the situation of concern pertaining to the trees.

It would also be wished to be provided with the following information, which may or may not constitute a request for information that could be requested in the form of a Freedom of Information Act 2000 request, but is considered nevertheless to be essential to the dealing with this matter:

A) Please provide details of the visits, including dates, made and undertaken by the Wyre Forest District Council and or the Health and Safety Executive to the person or persons lawfully responsible for the trees over the last four years;

B) Please provide details of the outcome from any such visits, investigations, enquiries or similar with regard to the business, land, or the trees relating to this notification and complaint, undertaken by the Health and Safety Executive, such outcomes presented as written assessments, reports, or similar for the last four years;

C) Please provide details of any action or undertakings by the Health and Safety Executive, the Wyre Forest District Council, or Worcestershire County Council, as a result of or in response to assessments and inspections of the land and trees, and the outcomes from any report;

D) Please could you provide the name and address for correspondence for the lawful and responsible owner of the land on which the trees are situated, or alternatively notify the lawful and responsible land owner to the concerns and the problems presented from the trees, and arrange or ensure that the responsible lawful land owner undertakes all required measures to ensure that the trees are made safe."

3. The HSE did not respond to this request and at the time of writing this notice a response had not been provided to the complainant.

Scope of the case

4. The complainant contacted the Commissioner on 14 April 2014 to complain about the failure of the HSE to respond to his request and to ask that the Commissioner intervene and issue a decision notice.

Reasons for decision

5. Section 1(1) of the FOIA 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 the information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him".

6. Section 10(1) of the FOIA provides 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.
7. In this case the HSE failed to respond within the 20 working day timescale and therefore has breached section 10(1) in relation to the handling of this request.
8. However, following contact with the Commissioner the HSE has informed the Commissioner it is in the process of formulating a response and as such, at the time of writing this notice, the Commissioner does not require the HSE to take any steps.

Right of appeal

9. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

10. 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.
11. 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

Pamela Clements
Group Manager
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Wilmslow
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SK9 5AF