

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 January 2012

Public Authority: Derbyshire County Council

Address: County Hall
Matlock
Derbyshire
DE4 3AG

Decision (including any steps ordered)

1. The complainant requested a copy of an application form for a Disability Facilities Grant and the criteria needed to apply.
2. The Information Commissioner's decision is that the Council breached section 10(1) of the Freedom of Information Act ("the FOIA") by failing to respond in writing within 20 working days. The Council subsequently responded to say that it did not hold information within the scope of the request. However the Council provided an explanation of the administration of the Disability Facilities Grant and referred the complainant to the appropriate public body which administers the grant.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 31 March 2011 the complainant wrote to the Council and made his request to the Director of Adult Social Services as follows:

"I would like to put on record to you personally in a separate letter that I am requesting a copy of an application form for a Disability Facilities Grant and the criteria needed to apply."
5. The Council responded on 8 June 2011 in a letter covering several matters including the above request. The Council explained that it does not administer the Disabled Facilities Grant and that the Grant is administered by the District Council.

6. On 8 July 2011 the Council again wrote to the complainant regarding various matters raised by the complainant in his subsequent letter to it of 14 June 2011. In this letter the Council again made reference to the administration of the Disabled Facilities Grant at the District Council.
7. On 5 August 2011 the Council responded to several letters from the complainant. The Commissioner has not seen these letters which deal with matters other than the complainant's request. However, the Council's response also notes that Bolsover District Council has confirmed to the Council that it sent a large print copy of the requested Grant application form to the complainant [on 13 April 2011].

Scope of the case

8. The complainant contacted the Commissioner to complain about the Council's failure to provide an application form and the criteria to apply for a Disability Facilities Grant over a three year period.
9. The Commissioner has considered the Council's duty under the FOIA to provide the requested information.

Reasons for decision

10. A request for an application form could reasonably be handled in the course of normal business practice. In this case Derbyshire County Council ("the Council") handled the request within the context of the complainant's other service user enquiries and informed him that the appropriate public authority to deal with his request was Bolsover District Council.
11. However, section 10(1) provides that a public authority should comply with a request for information within 20 working days. Section 1 provides that a public authority must provide to a complainant any information it holds which falls within the scope of the request.
12. In this case, the Council did not provide a substantive response under the FOIA to the specific request of 31 March 2011 within 20 working days.
13. However, the Commissioner accepts that the Council did not hold information within the scope of the request. The Commissioner notes that the Council informed the complainant that it did not hold the information and provided advice to the complainant to direct him to the relevant public authority able to provide the information he sought.

14. The Commissioner accepts that the complainant received the requested information in the required format from the appropriate public authority shortly after his request to the Council.
15. Nevertheless the request was not handled by the Council as an FOIA request and although the Commissioner understands the ongoing matters between the Council and the complainant may have resulted in confusion, he would draw the Council's attention to the points below in 'Other Matters'.

Other matters

16. Although they do not form part of this decision notice the Commissioner would draw attention to the following points.
17. The introduction to the code of practice ("the code") issued under section 45 of the FOIA states:

"All communications in writing to a public authority, including those transmitted by electronic means, may contain or amount to requests for information within the meaning of the Act, and so must be dealt with in accordance with the provisions of the Act. While in many cases such requests will be dealt with in the course of normal business, it is essential that public authorities dealing with correspondence, or which otherwise may be required to provide information, have in place procedures for taking decisions at appropriate levels, and ensure that sufficient staff are familiar with the requirements of the Act and the Codes of Practice issued under its provisions. Staff dealing with correspondence should also take account of any relevant guidance on good practice issued by the Commissioner. Authorities should ensure that proper training is provided in this regard."
18. Although the introduction does not form part of the code itself, the Commissioner would echo its recommendations. The Commissioner notes that the line between enquiries to public authorities which can be dealt with as 'normal business' and requests which should be handled under FOIA can often be blurred. However, the Commissioner expects that, in future, the Council will ensure that requests for information are identified as such and are not dealt with in a way which would conflict with any of the provisions of the FOIA.

Right of appeal

19. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

20. 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.
21. 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

Alexander Ganotis
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