

Freedom of Information Act 2000 (FOIA)
Decision notice

Date: 9 December 2013

Public Authority: Oxfordshire County Council

Address: County Hall
New Road
Oxford
OX1 1ND

Decision (including any steps ordered)

1. The complainant requested information from Oxfordshire County Council ("the council") about internal proceedings at Oxford and Cherwell Valley College. The council initially refused the request under section 14(1) of the FOIA, which provides an exclusion for vexatious requests. This was not accepted by the complainant, who asked the Commissioner to investigate whether the council was correct in their refusal. At the invitation of the Commissioner, the council subsequently revised its position and provided a new response to the complainant, as part of which it disclosed some information and withheld the remainder under exemptions provided by the FOIA.
2. The Commissioner's decision is that the council has breached sections 10(1) and 17(1) of the FOIA by providing its revised response outside of 20 working days.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 28 February 2012, the complainant wrote to the council and requested the following information relating to an internal investigation at a further education college:

"Thank you for confirming that The County Council holds its own records of events and has also been provided with a contemporaneous records and emails which act as very clear evidence of the college's own internal proceedings. On the basis of your statement to me and [redacted name] I am requesting these (contemporaneous records and emails) to be released under the FOIA ACT 2000 in the interests of openness and transparency."

5. The council issued a refusal notice on 16 April 2012, and advised that it considered the request to be vexatious under section 14(1) of the FOIA.
6. The complainant requested an internal review on 16 April 2012, but did not receive a response to this.

Scope of the case

7. The complainant contacted the Commissioner on 6 December 2012 to complain about the council's refusal of his request.
 8. Having considered the circumstances of the council's refusal, the Commissioner asked the council whether it wished to maintain its position. The council subsequently indicated that it wished to revise its position, and provided a new response to the complainant on 23 September 2013 in which it disclosed some of the held information (including information which originated after the complainant's request) and provided a refusal notice for the remainder. The complainant subsequently asked for an internal review of this response on 4 October 2013, which the council provided on 1 November 2013.
 9. The Commissioner considers that the scope of this case is the determination of whether the council responded to the request within the time for compliance.
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Reasons for decision

Section 10(1) – Time for compliance

10. Section 10(1) of the FOIA requires that a public authority should comply with the requirements of section 1(1) promptly, and in any event, within 20 working days following a request being received.
11. Section 1(1) of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information, and if so, to have that information communicated to him/her. This is subject to any exemptions or exclusions that may apply.
12. In this case the Commissioner has identified that the council revised its earlier refusal of the request and chose to issue a new response to the complainant, as part of which it disclosed held information. However, this held information was provided outside 20 working days, and therefore breached the requirement of section 10(1).

Section 17(1) – Refusal of request

13. Section 17(1) of the FOIA requires that a public authority wishing to rely on an exemption must issue a refusal notice within the time for compliance provided by section 10(1).
14. In this case the Commissioner has identified that the council issued a revised refusal notice in respect of the complainant's request. However, this was provided outside 20 working days, and therefore breached the requirement of section 17(1).

Right of appeal

15. If 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

16. 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.
17. 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
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Wycliffe House
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