

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 June 2015

Public Authority: Manchester City Council

Address: Town Hall
Albert Square
Manchester
M60 2LA

Decision (including any steps ordered)

1. The complainant has made a request to Manchester City Council ("the council") for information relating to a company owned by the council. The council responded to the request outside twenty working days.
2. The Commissioner's decision is that the council has breached section 10(1).
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 30 December 2014 the complainant wrote to the council and requested the following:

I am writing to ask under the Freedom of Information Act 2000 for some information on One Education Ltd a wholly owned company of Manchester City Council.

(a) One Education Ltd commenced activities on 1st September 2011 and to their year end 31st March 2012 produced profits for the seven month period of £990,942 on a turnover of £8,120,613 (+12%) and for 2012 – 2013 on a Turnover of £13,066,757 they had a profit for the financial year of £656,202 (+5%) and for 2013 – 2014 on a turnover of £11,478,815 (-12%) they made a loss of £874,548 (-8%). Total losses in the three periods have been 2012 (-£1062,058) 2013 (-£335,758) 2014 (-£924,548).

Can you please let me know which executive member and senior officer (s) at the council oversee scrutiny for One Education Ltd, and supply copies of minutes and papers and meeting dates from oversight meetings of the council for One Education in 2013 and 2014?

(b) Can you please explain why Manchester City Council and/or One Education have never appointed an external non executive independent director of the company?

(c) There is an exceptional item for £83,945 in exceptional items for their accounts YE 31.03.14 could you explain what this was for?

(d) As the members deficit in the balance sheet has increased in the last three financial periods from 2012 (-£1062,057) 2013 (-£1397,855) 2014 (-£2,322,403) how concerned are the council and what action have you taken and will you be taking?

(e) Could you explain why One Education Ltd has taken advantage of the ASB paragraph 17 exemption for group companies for related party transactions?

(f) As the company has reported that it is in a net liabilities position and that the directors have received an undertaking that working capital will be available to them up to 31st March 2015, can you confirm if this undertaking is from the council and if yes the details of that undertaking and whether the undertaking will continue after the 31st March and for how long?

(g) Can you confirm from their YE 31.03.14 accounts under director's remuneration whether the remuneration receivable of £170,002 and value of pension contributions of £28,220 relates to [redacted name]?

5. The council provided a substantive response on 3 February 2015.
6. Following correspondence between the two parties, the complainant requested an internal review on 17 March 2015.
7. The Commissioner understands that to date this has not been provided.

Scope of the case

8. The complainant contacted the Commissioner on 15 April 2015 and specifically requested that a decision notice that addressed whether the council had acted within the time for compliance given by section 10(1). The complainant also advised the Commissioner that no internal review had yet been provided.
9. The Commissioner considers that the scope of this case is the determination of whether the council has complied with section 10(1).

Reasons for decision

Section 10(1) – time for compliance

10. Section 10(1) requires that where a public authority has a duty under section 1(1), it must comply with that duty within twenty working days following receipt of the request.
11. The Commissioner has identified that the council did not provide a substantive response to the request within twenty working days of its receipt, and as such breached the requirement of section 10(1).

Other matters

12. Although they do not form part of this decision notice, the Commissioner would draw the council's attention to the following points.
13. In accordance with the Section 45 Code of Practice ("the Code of Practice"), the Commissioner expects all public authorities to offer complainants an internal review. This should mirror the public authority's internal complaints procedure, and be completed within 20 working days of receipt. The Commissioner accepts that the timeframe can be extended up to a maximum of 40 working days, but usually only when the request is particularly complex or voluminous. If additional time is required the public authority should notify the complainant that further time is required no later than the initial 20 working day deadline, and provide some indication of when this task will be completed.
14. In this case, it is apparent that the complainant specifically requested an internal review on 17 March 2015. However, the council has confirmed to the Commissioner on 15 May 2015 that this has not yet been carried out.

15. The Commissioner therefore advises the council to undertake an internal review as a matter of urgency, and to refresh itself of its obligations under the Code of Practice to ensure that it improves the internal review process for future requests. While the Code of Practice is not legally binding, the Commissioner may elect to issue a practice recommendation in situations where a public authority has consistently failed to follow its guidance. The Code of Practice can be accessed via the following link:

<http://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

Right of appeal

16. 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

17. 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.
18. 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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