

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 June 2016

Public Authority: Portsmouth City Council
Address: Civic Offices
Guildhall Square
Portsmouth
Hampshire
PO1 2AL

Decision (including any steps ordered)

1. The complainant has requested information about bullying in the workplace. Portsmouth City Council (the "Council") failed to respond to the request within the statutory time limit thereby breaching section 10(1) of the FOIA. A response has now been provided so no steps are required.

Background

2. The request can be followed on the "What do they know?" website¹.

Request and response

3. On 23 November 2015, the complainant wrote to the Council and requested information in the following terms:

"This request is being made to make the public at large and people in each authority aware of which councils are the worst offenders or the better examples when it comes to bullying in the workplace. All

¹ https://www.whatdotheyknow.com/request/bullying_in_portsmouth_city_coun

councils have very similar anti-bullying / dignity at work policies, but there seems to be a difference in the level of bullying. This is intended to statistically show those differences.

1) How many employees of your authority have made an official complaint of harassment and bullying at work since the 1st April 2009?

2) How many of these complaints were upheld in favour of the complainant?

3) How many of those which were not upheld in favour of the complainant went on to Appeal?

4) How many of those that went to Appeal were found to favour the complainant?

5) How many complaints went on to an Employment Tribunal?

6) How many of these were found to uphold the complaint?

7) Out of how many of those allegations (the number given to question 1) did the complainant of bullying claim that the bullies were telling lies?

8) How many staff does your authority have and what is the current population within your authority's area?"

4. The Council acknowledged its receipt on the following day but failed to respond to the request until 19 January 2016.
5. On 21 January 2016 the complainant requested an internal review, asking the Council to explain why it had taken so long to deal with his request. A response was chased by the complainant on 15 April 2016 and the internal review was provided on the same day.

Scope of the case

6. The complainant contacted the Commissioner on 15 April 2016 to complain about the way his request for information had been handled. He asked the Commissioner to consider the delay and the lack of response to his request for internal review.
7. The Commissioner will consider the delay below. The internal review will be considered in "Other matters" at the end of this notice.

Reasons for decision

Section 10 – time for compliance

8. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) initially requires a public authority in receipt of a request to confirm whether it holds the requested information.
9. The request was submitted on 23 November 2015 and the complainant did not receive a response from the public authority, which confirmed that it was / was not in possession of the relevant information, until 19 January 2016. The Commissioner therefore finds that the Council has breached section 10(1) by failing to comply with section 1(1)(a) within the statutory time period.

Other matters

Internal review

10. Part VI of the section 45 Code of Practice states that it is desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. The Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the FOIA, the Commissioner considers that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may take longer but in no case should the time taken exceed 40 working days; it is expected that this will only be required in complex and voluminous cases, which this request was not.
11. The Commissioner would like to remind the Council that he routinely monitors the performance of public authorities and their compliance with the legislation. Records of procedural breaches are retained to assist the Commissioner with this process and further remedial work may be required in the future should any patterns of non-compliance emerge.

Right of appeal

12. 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

13. 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.
14. 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

Carolyn Howes
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Wycliffe House
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SK9 5AF