

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 April 2017

Public Authority: Dudley and West Midlands Zoological Society Limited

Address: Castle Hill, Dudley, DY1 4QF

Decision (including any steps ordered)

1. The complainant has requested information relating to various job titles and departments at Dudley and West Midlands Zoological Society Limited (DWMZS).
2. The Commissioner's decision is that DWMZS is a public authority for the purposes of FOIA pursuant to section 6 of the FOIA.
3. DWMZS should now issue a response to the complainant ensuring it complies with section 17^{1,2} of the FOIA.

Request and response

4. On 20 December 2016, the complainant wrote to DWMZS and requested information in the following terms:

"I am writing to make a request for information about Dudley Zoo under Section 1(1) of the Freedom of Information Act 2000. The information that I request is as follows:

- 1. The job titles (but not the names of the actual post-holders) of the members of the Zoo's senior management team.*

¹ <http://www.legislation.gov.uk/ukpga/2000/36/section/17>

² <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request/>

2. *A list of the departments of Dudley Zoo and the job title (but not the names of the actual post-holders) of the head of each department.*
3. *A list of the names of the animal sections (or other similar divisions) into which the department that manages the Zoo's animal collection is divided.*
4. *A list of the job titles (but not the names of the actual post-holders) of staff in the department that manages the Zoo's animal collection, specifically curatorial and zookeeping staff."*
5. DWMZS responded on 21 December 2016 and stated that as a registered charity it was not subject to FOIA.
6. The complainant responded the same day and stated:
"Dudley and West Midlands Zoological Society Ltd is a company which has a share capital. All shares in Dudley and West Midlands Zoological Society Ltd are owned by Dudley Metropolitan Borough Council. That makes Dudley and West Midlands Zoological Society Ltd a publicly owned company. Section 6 of the Act applies and you are bound by this legislation."
7. DWMZS responded on 24 December 2016 and maintained that it was not subject to FOIA.

Scope of the case

8. The complainant contacted the Commissioner on 8 March 2017 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine if DWMZS is a public authority for the purposes of FOIA.

Reasons for decision

10. The relevant sections of the FOIA are:

Section 3(1)(b) which states:

(1) In this Act "public authority" means—

(b) a publicly-owned company as defined by section 6.

Section 6 - Publicly-owned companies

(1) A company is a “publicly-owned company” for the purposes of section 3(1)(b) if—

(b) it is wholly owned by any public authority (amended to “the wider public sector³”) listed in Schedule 1

For the purposes of this section—

(b) a company is wholly owned by the wider public sector if, and only if, every member is a person falling within sub-paragraph (i) or (ii)—

(i) a relevant public authority or a company wholly owned by the wider public sector,

11. Schedule 1 Part II defines a local authority as:

A local authority within the meaning of the Local Government Act 1972, namely—

(a) in England, a county council, a London borough council, a district council or a parish council,

12. The Commissioner has reviewed the information provided to her by the complainant along with publically available information via Companies House. She has also considered her own guidance⁴.

13. DWMZS’s annual return dated 22 June 2016 shows that all its shares are held by Dudley Metropolitan Borough Council, i.e. a public authority.

Conclusion

14. The Commissioner’s decision is that DWMZ is indeed a public authority for the purposes of FOIA.

³ <http://www.legislation.gov.uk/ukpga/2012/9/section/103>

⁴ https://ico.org.uk/media/for-organisations/documents/1152/public_authorities_under_the_foia.pdf

Right of appeal

15. 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

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

Pamela Clements
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