

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 14 September 2017

**Public Authority:** Cumbria County Council  
**Address:** Cumbria House  
117 Botchergate  
Carlisle  
CA1 1RD

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to care plans for elderly people in the Appleby area. The Council failed to respond within the statutory 20 working days prescribed by FOIA.
2. The Commissioner's decision is that the Council breached section 10(1) of the FOIA as it did not respond to the request within the timescale for compliance.
3. As a response has now been provided, the Commissioner does not require the Council to take any steps.

#### Request and response

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4. On 9 January 2017, the complainant wrote to Cumbria County Council ('the Council') and requested information in the following terms:

*"The Edenside Residential Home in Appleby closed in December 2015. Its residents were moved to a home in Penrith. Following a consultation Cumbria County Council decided that the closure should be permanent. The town was promised that there would be a robust plan for future care of elderly people unable to care for themselves. Over a year later this has not materialised.*

*Freedom of Information Requests:*

*What plans have been made for the future care of former Edenside residents?*

*What are the long term plans for elderly people in Appleby needing constant care?*

*What, if anything, has been done to prevent the Edenside building from deteriorating further - from December 2015 - January 2017?*

*Since the property, site and building, are assets, needed as the Council faces a shortfall in government funding what are the County Council's plans for the site and building in the short and longer term?"*

5. The Council responded to the request on 13 March 2017, and provided some information. It withheld some information citing the section 40(2) exemption for third party personal data. The Council also apologised for the delay in responding.
6. The complainant was not happy with the response and requested an internal review on 15 March 2017. The Council acknowledged the request and stated that it aimed to respond in 20 working days, which was by 12 April 2017. Following correspondence from the Commissioner, the Council issued an internal review response on 20 June with a further apology for the delay.

### **Scope of the case**

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7. The complainant initially contacted the Commissioner on 16 March 2017 to express dissatisfaction with the Council's late response to the request, and also with the detail contained within it. The Council took 40 working days to respond to the request.
8. The complainant contacted the Commissioner again on 20 April 2017 to advise that she had not had a response to an internal review request made on 15 March 2017. The Council stated that it aimed to respond in 20 working days but in fact took 65 working days to respond.

### **Reasons for decision**

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9. Section 1 (1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held, and, if the information is held, to have that information communicated to them.

### **Section 10(1) of the FOIA – Time for compliance with request**

10. Section 10 (1) of the FOIA states that a public authority must respond to a request promptly and *“no later than the twentieth working day following receipt”*.
11. The complainant made her request for information on 9 January 2017. The Council provided it's response on 13 March 2017.
12. The Commissioner is satisfied that this response falls outside of the 20 working days from the date the request was received on 9 January 2017.
13. In this case the council has breached section 10(1) of the FOIA by failing to respond to the request within 20 working days.

### **Other matters**

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14. The complainant also expressed concern at the late reply to her internal review request, which she had to follow up with the Council a number of times before getting a response. The Council responded following communication on the matter from the Commissioner.
15. The Commissioner considers that an internal review should take no longer than 20 working days in most cases, or 40 working days in exceptional circumstances. The Commissioner notes that in this case it took 65 working days to respond to the internal review request.
16. The Commissioner therefore asks the Council to examine its internal review processes such that it can ensure that it responds in line with her guidance.

## Right of appeal

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17. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

18. 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.
19. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**