

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 July 2019

Public Authority: Birmingham Children's Trust
Address: 1 Lancaster Circus
Queensway
Birmingham
B4 7DJ

Decision (including any steps ordered)

1. The complainant requested information regarding social care payments.
2. The Commissioner's decision is that Birmingham Children's Trust ("the Trust") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Trust to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Trust must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 22 February 2019, the complainant wrote to Birmingham City Council ("the Council") and requested information in the following terms:

"I'd like to make a request under the Freedom of Information act for all transactions over £500 from 1st April 2017 to 31st December 2018. As a minimum, please make sure to include the date, value and recipient of each transaction."

"If it would help, I am specifically looking for payments to suppliers who provide a service in Health and Social Care. This would include all suppliers falling under the categories :-

1. *Payments to suppliers who provide fostering and adoption services to the Council*
2. *Payments to suppliers who provide care services to the council. This would include suppliers who provide care under each of below –*
 - a. *Children's Residential/ Nursing Care Providers*
 - b. *Adult Residential/ Nursing Care Providers*
 - c. *Elderly Residential/ Nursing Care Providers*
 - d. *Domiciliary Care Home Providers*
 - e. *Supported Living Care Home Providers*
 - f. *Care at Home Providers*
 - g. *Providers who carry out Homeless Services*
3. *Payments to suppliers who provide Special Education Services*

"In particular I am looking for itemized transactions for suppliers from 1st April 2017 - 31st December 2018 - preferably in CSV format."

6. The Council responded to the request on 4 March 2019, but the complainant was unhappy and requested an internal review.
7. The Council wrote back to the complainant on 14 March 2019 to say that it no longer held the information which the complainant had requested in relation to children's services as this information was now held by the Trust – which runs children's service on behalf of the Council.
8. The complainant agreed to the Council's offer to transfer the request to the Trust and the Council then provided him with a reference number on 20 March 2019 – it was not clear whether this reference number was generated by the Trust or the Council.
9. The Trust had failed to issue a response to the request by the date of this notice.

Scope of the case

10. The complainant contacted the Commissioner on 17 May 2019 to complain about the failure, by the Trust, to respond to the request.
11. In line with her usual practice, the Commissioner contacted the Trust on 5 June 2019 to highlight the outstanding response. She requested that the Trust respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
12. There then arose some confusion as to whether the request had in fact been received by the Trust as the available evidence was unclear. The Commissioner eventually made contact with the Trust, which confirmed verbally that it had received the request.
13. The Commissioner considers that the fact that the response to this request remains outstanding despite her intervention means that a decision notice is appropriate in this case.
14. The scope of this notice and the following analysis is to consider whether the Trust has complied with section 10 of the FOIA.

Reasons for decision

15. Section 1(1) of the FOIA states that:

Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

16. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

17. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
18. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
19. As the Trust has confirmed that it did receive the request, it was then under a duty to respond to that request. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Trust has breached section 10 of the FOIA.

Right of appeal

20. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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

Ben Tomes
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