

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 October 2020

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

Decision (including any steps ordered)

1. The complainants requested various expenditure information. Birmingham Children's Trust ("the Trust") had not issued a substantive response at the date of this notice.
2. The Commissioner's decision is that 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 16 April 2020, the complainants wrote to the Trust and requested information in the following terms:

"Please may I have the following information which is requested under the Freedom of Information Act.

1. *What was the total amount in revenue did the Birmingham Childrens Trust obtain through public funds for the year: 2017, 2018 and 2019*
 2. *How much of this total amount was allocated as cost for care and protection of each child under the category of investigation under Sec 47 of each Child Protection.*
 3. *How much of the amount allocated to each child was paid in wages to each Social worker who were assigned to each individual child*
 4. *From what source(s) does funding arrive for the above mentioned.*
 5. *How much of this funding comes direct from the public purse.*
 6. *How much money does the Childrens Trust envisage spending on Child Protection in the year 2020*
 7. *How does the Children Services ensure funding keeps abreast with expected expenditures*
 8. *Do the number of children brought under the auspices of Child Protection have an impact on the amount of funding received from the government*
 9. *Why are there more than one Social Workers assigned to each child under Child Protection*
 10. *Apart from the Reports compiled after each Conference and Child Protection Core Meetings, what further records are written up and kept for future references."*
6. The Trust did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainants contacted the Commissioner on 11 September 2020 to complain about the failure, by the Trust, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Trust on 30 September 2020 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.
9. The complainant contacted the Commissioner on 15 October 2020 to request a decision notice considering the Trust's compliance with the FOIA.
10. 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

11. Birmingham Children's Trust's listing on Companies House states that it is a Community Interest Company. However, its listing also records Birmingham City Council ("the Council") as a "person with significant control" that owns "75% or more" of the Trust's shares. No other individual or entity appears to own shares and the Council has the power to appoint and remove the Trust's directors. The Commissioner is therefore satisfied that, whilst the Trust is a separate legal entity from the Council, it is wholly owned by the wider public sector and is therefore a public authority within the definition of section 6(1)(b) of the FOIA.
12. 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.*
13. 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.*
14. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
 15. Whilst the Trust has not acknowledged the request, the evidence supplied to the Commissioner demonstrates that the request was sent to an email address that can be found on the Trust's website. In addition, by contacting the Trust prior to issuing her decision, the Commissioner has provided the Trust with an opportunity to dispute having received the request.
 16. On the balance of probabilities, the Commissioner considers that the complainants' request was received by the Trust and the Trust was therefore obligated to respond.
 17. 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.*"
 18. 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

19. 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

20. 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.
21. 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

Phillip Angell
Group Manager
Information Commissioner's Office
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SK9 5AF