

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 April 2015

Public Authority: Newcastle Under Lyme Borough Council
Address: Civic Offices
Merrial Street
Newcastle Under Lyme
ST5 2AG

Decision (including any steps ordered)

1. The complainant has requested information from Newcastle Under Lyme Borough Council (the council) relating to a specified business premises. The council has responded to the request, but the complainant requested a decision notice.
2. The Commissioner's decision is that the council has complied with section 10 of the FOIA as the response was provided within 20 working days.
3. As there has been no breach of the FOIA, the Commissioner does not require the council to take any steps.

Request and response

4. On 19 February 2015, the complainant wrote to the council and requested information in the following terms:

"Please provide me with copies and full details of all communications that the Council have had with [named individuals] (tenants of [the specified property]) and [named individual] (owner of [the specified property]) in connection with [the specified property] to include copies of all e mails and letters and copies of all other forms of communication and to also include copies of all your Council records (not least copies of the original notes of telephone conversations the Council had with all the named persons) relating to this request as well as all internal Council communications in connection with this request

to include Council staff and Council office holders. It has been repeatedly made clear by me in my communications with the Council Legal Department that I will only deal with Solicitors from that Council and that e mails from any other persons at the Council will not be opened or read by me and I have given valid reasons for stipulating that method and point of the Council contacting me."

5. The council responded on 16 March 2015 under the reference 4927. It stated that the information was withheld on the basis that it was personal data and that section 40(2) therefore applied. The response directed the complainant to ask for an internal review if he was unhappy with the response.

Scope of the case

6. The complainant contacted the Commissioner about this request on 27 March 2015. He alleged that the council had not yet responded to his request and asked the Commissioner to serve a formal decision notice to record the alleged non-compliance.

Reasons for decision

7. 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 the date of receipt".
8. The Commissioner is in possession of the council's response to the complainant dated 16 March 2015. He finds that this response was provided to the complainant within the statutory time frame of 20 working days.
9. The Commissioner's decision therefore is that the council has dealt with the request for information in accordance with the FOIA. It has not breached section 10(1) of the FOIA as alleged by the complainant as response to the request was provided within the statutory timeframe of 20 working days.
10. The Commissioner notes that the complainant stipulated to the council that he will only read correspondence sent to him by solicitors at the council, and that "*emails from any other persons at the council will not be opened or read by me.*" The Commissioner would like to make it clear that the FOIA does not provide for requesters to demand who will respond to their request. It is clear to the Commissioner that the

response issued in this case came from the council, and is therefore a valid response for the purposes of the FOIA.

11. The Commissioner notes that if the complainant is now dissatisfied with the council's response, the correct course of action is for him to request that the council conducts an internal review.

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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF