

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 7 March 2016

**Public Authority:** Portsmouth City Council  
**Address:** Civic Offices  
Guildhall Square  
Portsmouth  
Hampshire  
PO1 2AL

#### Decision (including any steps ordered)

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1. The complainant requested information relating to the closure of the Pyramids Centre in Portsmouth.
2. Portsmouth City Council (the Council) failed to respond to this request for information within the statutory timeframe. The Commissioner's decision is that in doing so the Council breached section 10(1) of the FOIA (time for compliance).
3. As the Council has now responded, the Commissioner requires no further steps to be taken.

#### Request and response

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4. The complainant wrote to the Council on 9 September 2015 and requested information in the following terms:

*"I am writing to submit a freedom of information request pertaining to correspondence/details of communication between Portsmouth City Council and the following parties during the extended closure of the Pyramids (end of 2013 onwards):*

- owners/operators of the Pyramids;
- any contractors working on their behalf;

- *any health and safety inspectorate involved;*
- *any other relevant party with whom there was correspondence on this matter.*

*In particular, I am looking for correspondence/details of communication between the aforementioned parties pertaining to and elucidating:*

- *the presence of a bacterium found on-site which led to closure prior to the much more widely publicised and much more extensive closure due to flooding;*
- *the resolution thereof;*
- *reasons for the closure (publicly stated by the owners/operators of the Pyramids to be due to the flooding) being as protracted as it was".*

5. The Council acknowledged receipt of the request on 10 September 2015. In doing so, it anticipated that the cost of complying with the request would exceed the appropriate limit. The Council invited the complainant to refine his request. It advised the scope of the information it considered could be provided within the appropriate limit.
6. The complainant confirmed, on 10 September 2015, that he was prepared to refine the scope of his request "*so as to encompass correspondence pertaining to the presence of a bacterium on-site, the resolution of the problem and the reasons for the full duration of the closure*".
7. The Council acknowledged receipt of that clarification of the request on 11 September 2015.
8. Further correspondence between the two parties followed including the Council inviting the complainant on 12 November 2015 to re-focus his request "*to bring it to a manageable level*". The complainant agreed to a further refining of the scope of his request.
9. The Council provided its substantive response on 23 December 2015.

## **Scope of the case**

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10. The complainant contacted the Commissioner on 2 February 2016 to complain about the way his request for information had been handled. While acknowledging that the Council had apologised for the lengthy delay in responding, he nevertheless wished to complain about the

timeliness with which the Council responded to his request for information.

11. The Commissioner has therefore considered the time it took for the Council to respond to the request.

## Reasons for decision

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12. Section 1 of 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 10 of the FOIA states that:

*"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

14. By failing to disclose to the complainant the information it held which fell within the scope of his narrowed request within 20 working days, the Council breached section 10(1) of the FOIA.

## Other matters

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15. The provision of advice and assistance is how a public authority interacts with an applicant in order to discover what it is that the applicant wants and, where possible, assist them in obtaining this. In that respect, section 16 of the FOIA places a duty on public authorities to provide reasonable advice and assistance to applicants. While not making any finding in respect of section 16, the Commissioner makes the following observations:

- on receiving the request in this case, the Council quickly recognised that it would not be able to respond to it within the appropriate cost limit;

- while it provided the complainant with advice and assistance to enable him to make a refined request, the initial advice proved to be flawed, contributing to the delay in responding.
16. In light of the above, the Commissioner asks that the Council makes greater efforts to provide useful and meaningful advice to requesters who require assistance on reducing the scope of their requests.
  17. The late response in this case will be recorded and will form part of the Commissioner's on-going activity to consider the performance of public authorities and the FOIA.
  18. The Commissioner recognises that, in correspondence with the complainant, the Council explained the reasons for the delay in providing the requested information. He notes that the Council has indicated the steps it proposes to take to improve its request handling. The Commissioner welcomes this approach and expects that, in future, the authority's responses will be compliant with the requirements of the legislation.

## Right of appeal

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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@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)

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** .....

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**