

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 October 2022

Public Authority: Health and Safety Executive
Address: Redgrave Court
Merton Road
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant requested information regarding a fatal accident at Drayton Manor. The above public authority ("the public authority") originally withheld all the information, before eventually disclosing some during the Commissioner's investigation.
2. The Commissioner's decision is that the public authority breached section 10 of FOIA as it failed to communicate non-exempt information to the complainant within 20 working days.
3. The Commissioner does not require further steps.

Request and response

4. On 4 June 2021, the complainant wrote to the public authority and requested information in the following terms:

"This request is to for you to release all available reports conducted by HSE including any expert witness statements and any reports conducted by HSL (if any) in relation to the water ride incident at Drayton Manor Theme Park on the Splash Canyon Water Ride in 2017

"I understand that the legal proceedings are now completed and the HSE has historically released reports into similar accidents involving amusement rides upon completion of legal proceedings."

5. The public authority responded on 25 June 2021 and relied on section 30 of FOIA (criminal investigations) to withhold the information. A position it upheld at internal review.

Scope of the case

6. The Commissioner notes that, once again, he was obliged to issue an information notice to require this public authority to provide his office with copies of the withheld information and copies of its submission.
7. When the public authority did eventually comply with the information notice, it revised its position. It noted that it had identified three documents as falling within the scope of the request. Document 1, it still wished to rely on section 30 of FOIA to withhold, but documents 2 and 3, it believed, could now be disclosed – albeit with some minor redactions. This information was disclosed on 12 October 2022
8. The complainant was content with the information that was disclosed, but asked the Commissioner to take note of the procedural handling of the request.

Reasons for decision

9. When a public authority receives a request it has twenty working days in which to communicate all non-exempt information.
10. Whilst the public authority did respond to the request within twenty working days, it did not communicate all the non-exempt information it held until part way through the Commissioner's investigation.
11. The Commissioner therefore finds that the public authority breached section 10 of FOIA in dealing with this request.

Other matters

12. The Commissioner notes that the public authority took six months to complete its internal review. He considers this to be extremely poor practice.

Right of appeal

13. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

14. 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.
15. 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

Roger Cawthorne
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