

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 7 July 2022

**Public Authority:** Norton-on-Derwent Town Council

**Address:** The Old Court House  
84B Commercial St  
Norton  
Malton  
YO17 9ES

### **Decision**

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1. The complainant requested information from Norton-on-Derwent Town Council ("the Council") relating to a skatepark.
2. The Commissioner's decision is the Council failed to provide an adequate response to the request. Consequently the Commissioner finds that the Council breached section 1(1) and section 10(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - The Council must issue a fresh response to the request which is adequate for the purposes of the FOIA.
4. The Council 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. The complainant made the following information request to the Council on 16 August 2021 (numbering added by Commissioner):

"Following the residents meeting and subsequent incidents that have happened since then, I would appreciate it if you could answer the below questions, taking into account freedom of information.

Obviously, the campaign started to rescue the halfpipe. But much more has come to light in recent weeks:

1. Now that MNAP have provided detailed information regarding the H&S related to the halfpipe and shown that it is not an issue or risk to the council, what, if any, are the reasons that the counsellors may have for not saying yes to fixing a halfpipe which will cost them NOTHING?
2. [Name redacted] like to question H&S and give his own opinion (but somehow cannot muster the strength to turn around at a meeting and listen to the public when they are speaking). Can you confirm whether [name redacted] has the correct qualifications to be working on public skatepark ramps? Did he have a signed risk assessment and method statement? Can these be made available for review? Presumably these are all time stamped prior to the works being carried out?
3. I would note that [name redacted] was not wearing any PPE, nor did he have the area safely fenced off whilst working. Can you confirm that these works fully conformed with the H&S Act 1974? [Name redacted] is keen to reference this Act when speaking about the halfpipe but he clearly was not worried about H&S when he turned up with his own tools last week.
4. The shocking state of the remaining ramps has been brought to everyone's attention following the rejection of the halfpipe renovation, which is based on weak H&S grounds that have since been proven unjust by MNAP.
5. I would like to know who it was that decided to re-lay the ramps in deadly metal with cheese grater perforated metal finishing. What is their background when it comes to skateparks and were professionals consulted? What BS standard have these ramps been re-laid to? And why were they not re-laid in the correct 'skatelite' wood?

6. It has come to our attention that a local counsellor was awarded the works to re-lay the ramps in metal. Could the tender documents and tender emails be made available by FOI please? Were professional skatepark companies given a fair opportunity to return a price during this tender process and are all of these quotations able to be made available? Were the quotations compared 'like for like'? Who made the final decision to use a local company who must have never worked on ramps before given the shocking standard of workmanship?
  7. How long will the skatepark be temporarily closed for? It seems odd that given all of the recent conversations over the skatepark it is now closed due to the state of the ramps whereas the local kids play park that has a slide in shocking condition, is still open for use? Who made the decision to temporarily close the skatepark?"
6. The final position of the Council was that it has provided the complainant with the requested information.

### **Reasons for decision**

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7. This reasoning covers whether the Council has complied with its obligations under section 1(1) (general right of access to information) and section 10(1) (time for compliance) of the FOIA.
8. The Council's position is that it has answered all the questions within the request and provided the complainant with all the information it holds within the scope of the request. The complainant considers that the Council has not provided all the information it holds within the scope of their request.
9. Whilst the complainant's request consists of several questions as well as requests for specific pieces of recorded information, a question can be a valid information request under the FOIA<sup>1</sup>. In this case, the complainant has clearly stated that they expected the Council to handle the entirety of their request, including their questions, as a freedom of information request. Therefore, the Council should have handled the whole request under the FOIA.

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<sup>1</sup> [recognising-a-request-made-under-the-foia.pdf \(ico.org.uk\)](https://ico.org.uk/recognising-a-request-made-under-the-foia.pdf)

10. The Commissioner considers that the Council has failed to provide an adequate response to the request. Specifically, the Council did not provide the complainant with an adequate response to questions 1, 2, 3, 5, 6 and 7 of their request. Therefore, the Commissioner's decision is that the Council has breached section 1(1) (general right of access to information) and section 10(1) (time for compliance) of the FOIA
11. The Commissioner requires the Council to provide the complainant with a fresh response to the whole of the request which answers the questions within the request. The Council should either provide the complainant with the requested information or an adequate refusal notice should be provided.

## Right of appeal

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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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

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