

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 September 2013

Public Authority: Wirral Borough Council

Address: Municipal Building
Cleveland Street
Birkenhead
Merseyside
CH41 6BU

Decision (including any steps ordered)

1. The complainant has requested a copy of a document relating to a 'whistleblower' at Wirral Borough Council (council). The council initially relied on section 32 and 40(2) of the FOIA not to release the information. However, during the course of the Commissioner's investigation the council decided not to rely on section 32 and released the information but it maintained section 40(2) and redacted names in the document.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA as it did not provide a response to the complainant within the required 20 working days from the receipt of the request.
3. As the council has now provided the response to the complainant the Commissioner requires no steps to be taken.

Request and response

4. On 11 July 2012, the complainant wrote to the council and requested information in the following terms:

"Please forward a copy of the document that was published on the Wirral.gov.uk website which identified a long term whistleblower who was receiving [named individual's] assistance in order to expose impropriety and the loss of several hundred thousands of pounds in public money associated with the current Highways Contract - won by COLAS. The document was later taken down, but by then it was too late. The damage had been

done.

Here is a link to a press article to assist you. This contains all the details:

<http://www.wirralglobe.co.uk/news/980817...>

Please redact any personal identifying information as you see fit in accordance with the Data Protection Act.

This was an extremely serious breach of a private individual's private information. It will also have the unfortunate consequence (to the public interest, not the council's interest) of deterring anybody working at the council from following in the path of at least 3 brave whistleblowers who have exposed malpractice in recent years,"

5. The complainant requested an internal review on 11 August 2012 as no response was received to the information request.

Scope of the case

6. The complainant contacted the Commissioner on 6 October 2012 due to the non-response of his information request.
7. The Commissioner wrote to the council on 29 November 2012 and requested the council to respond to the information request.
8. The council responded on 11 June 2013. It refused to provide the requested information. It considered the entire document to be exempt under section 32 and 40(2) of FOIA.
9. During the course of the Commissioner's investigation the council decided it was no longer relying on section 32 of FOIA and provided the information requested to the complainant on 20 August 2013. It maintained that section 40(2) was engaged and redacted names from the information provided.
10. The complainant has not disputed the names being redacted by the council, but has complained to the Commissioner about the time it took for the council to respond to the information request.
11. The Commissioner will therefore consider whether the council breached section 10(1) of FOIA.

Reasons for decision

12. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.

13. The council did not issue a response to the complainant until 11 months after the initial information request and did not provide the information until 13 months after the initial request. Therefore the Commissioner finds that the council has breached section 10 of the FOIA.

Right of appeal

14. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

15. 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.
16. 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
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