

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 November 2011

**Public Authority:** Wirral Borough Council  
**Address:** Wallasey Town Hall  
Brighton Street  
Wallasey  
Wirral  
CH44 8ED

### Decision

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1. The complainant wrote to Wirral Borough Council (the "council") and requested the following information:
  - How many individuals with a Learning Disability, with capacity to make decisions have been declined the opportunity for a personal budget to choose a support provider and have had the support provider chosen for them by their care coordinator?
2. The Information Commissioner's (the "Commissioner") decision is that the council did not deal with the request for information in accordance with the FOIA in the following way:
  - It failed to provide a response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the council to take the following steps to ensure compliance with the FOIA:
  - To confirm or deny whether the requested information is held.
  - If information is held, either provide it or issue a valid refusal notice as set out in the FOIA.
4. The public authority 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 (or the court of session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## **Request and response**

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5. On 12 March 2011, the complainant wrote to the council and requested information in the following terms:  
  
"Could you please detail how many individuals with a Learning Disability, with capacity to make decisions have been declined the opportunity for a personal budget to choose a support provider and have had the support provider chosen for them by their care coordinator since the start of Phase 2."
6. Between 17 April 2011 and 3 October 2011 the complainant wrote to the council a number of times seeking a response to their request."

## **Scope of the case**

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7. In July 2011 the complainant contacted the Commissioner to complain about the council's failure to respond to their request.
8. The Commissioner has investigated whether the council has responded to the request within the statutory time limit set within the FOIA.

## **Reasons for decision**

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9. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
10. The Commissioner contacted the council on 7 September 2011 and 5 October 2011 and advised that he had received a complaint about its failure to respond to the request. The council neither responded to the request nor did it acknowledge receipt of the Commissioner's correspondence.
11. It is clear to the Commissioner that, in this case, the council has failed to respond to the request in the time limit set within the FOIA.

## **Other matters**

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12. Although they do not form part of this decision notice, the Commissioner wishes to note his concerns about the severe delays involved in this case.

13. The council's ongoing failure to respond to the request, despite being repeatedly prompted to do so by the complainant and the Commissioner raises concerns that the council might not take its responsibilities under the FOIA seriously.
14. The Commissioner has logged the delays involved in the handling of this request and expects that, in future, the council will respond to requests within the time limits required by the FOIA.

## Right of appeal

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15. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

16. 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.
17. 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**