

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 April 2014

Public Authority: Oxfordshire County Council
Address: County Hall
New Road
Oxford
OX1 1ND

Decision (including any steps ordered)

1. The complainant requested information about data protection training relating to five individuals from Oxfordshire County Council (the Council).
2. The Commissioner's decision is that the Council has provided the information requested. The Commissioner notes however that the information was provided outside the statutory timeframe and as such the Council breached section 10 of the FOIA.
3. The Commissioner does not require the public authority to take any further steps.

Request and response

4. On 5 April 2013, the complainant wrote to the Council and requested information in the following terms:

"I am enquiring about the children education and families directorate and particularly senior officers that are tasked with answering Requests involving personal data known as subject access requests.

You are required to demonstrate that the staff members listed below have been given

A) Data protection training and dates.

B) Councils data protection guidance has been communicated read and understood and dates

[names of five individuals]

You are required also to demonstrate that you have a system in place for checking whether data protection training has been completed”.

5. On 7 May 2013 the Council responded. It refused to provide the requested information. It cited the section 40(2) exemption as its basis for doing so.
6. Outside of the FOIA, the Council provided background information relating to its Learning Management System. It also advised that the Council has its Data Protection Policy and manual on its intranet. It further advised that Data Protection requirements are included in an employee contract of employment.
7. The complainant requested an internal review on 8 May 2013. The Council sent the outcome of its internal review on 14 June 2013. It upheld its original position with regard to the exemption at section 40(2), reiterated its position with regard to its Learning Management system and advised that training was reported to senior managers both on a formal and on an ad hoc basis. The internal review response confirmed that all of the named individuals had undertaken one or more of the training options detailed. Those training options were:
 - e-learning package
 - Classroom based data protection briefing
 - Personalised data protection briefings for senior staff.
8. The internal review response also advised that Data Protection requirements are included in an employee's contract of employment and covered in the induction policy for new staff.

Scope of the case

9. The complainant contacted the Commissioner on 29 September 2013 to complain about the way his request for information had been handled. Specifically he wished to complain that he had requested proof in the form of recorded information but had not received this.
10. The Commissioner considered the scope of his investigation was to determine whether the exemption at section 40(2) was engaged.

11. During the course of his investigation, the Commissioner requested a copy of the information which the Council had withheld under the exemption at section 40(2). The Council provided the information in relation to one individual and stated that it held no recorded information relevant to the request in the cases of the four remaining individuals.
12. After a further review of the request for information, the Council decided to disclose the information held in relation to the one individual and to advise the complainant that it held no information in respect of the other 4 named individuals.
13. The Council wrote to the complainant disclosing the information held and explaining that although at the time of the request it held no information in relation to four of the named individuals, it was able to confirm that since the date of the request those four individuals had undertaken the Council's e-learning course. However the Commissioner notes that training dates provided for the four remaining individuals show that one had undertaken relevant training prior to the request for information.
14. In light of the disclosure of the information, the Commissioner contacted the complainant who indicated that he accepted that he had been provided with the requested information but confirmed he still wished for a Decision Notice to be issued by the Commissioner.
15. The disclosure of the information meant that the scope of the case therefore was to consider whether the Council breached section 10 of the FOIA in handling the request.

Reasons for decision

Section 10(1) – time for compliance

16. Section 10(1) of the FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following receipt of a request. Section 1(1) states that a public authority should confirm whether it holds relevant information and, if so, to communicate that information to the applicant.
17. The request, in this case, was made on 5 April 2013 and it was not until after the Commissioner commenced his investigation that the Council disclosed the information it held and confirmed which information it did not hold. The Commissioner notes that some information provided to the complainant at this point had been held by the Council at the date of the request. In failing to provide this information within 20 working days of receipt of the request, the Council breached section 10(1) of the FOIA.

Other matters

18. The Commissioner notes that the Council's initial application of section 40(2) to the entire request implied that the Council held information relevant to the whole request. During the course of the investigation it became apparent that this was not the case. Furthermore, in responding to the complainant's request for an internal review, the Council confirmed that all of the individuals to whom the request related had undertaken one or more forms of training. Whilst at the date of the internal review this was factually correct, the Commissioner considers it to have been misleading in terms of the request as three of the individuals named had undertaken the training after the Council had received the request. This was not made clear at internal review stage.
19. The Commissioner asks that in its handling of future requests the Council considers whether it holds the information requested before applying any exemption under the FOIA and responds accordingly and appropriately to any applicant making a request.

Right of appeal

20. 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: GRC@hmcts.gsi.gov.uk

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

21. 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.
22. 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

Alexander Ganotis
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Wilmslow
Cheshire
SK9 5AF