

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 July 2015

Public Authority: Chester West and Chester Council

Address: HQ Building
58 Nicholas Street
Chester
CH1 2NP

Decision (including any steps ordered)

1. The complainant has requested information relating to a lease and transfer agreement between Cheshire West and Chester Council and Cheshire Academies Trust. The information concerns Boughton Heath Primary School.
2. The Commissioner's decision is that Cheshire West and Chester Council has contravened section 10 of the FOIA by failing to respond to the complainant's request within the twenty working days compliance period.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Council is required to respond to the complainant's request.
4. The Council must take this step 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 6 May 2015, the complainant wrote to Cheshire West and Chester Council and requested information in the following terms:

"Please send me:

- *The executed and delivered lease agreement, between the council and Cheshire Academies Trust, for Boughton Heath Primary School*
- *The executed and delivered transfer agreement, between the council and Cheshire Academies Trust, for Boughton Heath Primary School*

I would like the above information to be provided to me as electronic copies."

Scope of the case

6. The complainant contacted the Commissioner on 4 June 2015 to complain about the Council's failure to respond to his request.
7. This notice is the Commissioner's decision in respect of the Council's failure to respond to the complainants request within the time period provided by section of the FOIA.

Reasons for decision

8. Section 1 of FOIA states that:

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

9. Section 10 of the FOIA states that:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

10. The Commissioner intervened in this matter by speaking with an officer of the Council on 23 June.
11. On 24 June the Council confirmed to the Commissioner that it had located the complainant's request. The Council explained that an administrative error had occurred and consequently the complainant's request having been incorrectly filed.

12. On 25 June, the Commissioner wrote to the Council and asked it to respond to the complainants request within the next ten working days.
13. On the facts of this case the Commissioner's decision is that the Council has contravened 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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