

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 July 2016

**Public Authority:** Newcastle City Council  
**Address:** Civic Centre  
Newcastle upon Tyne  
NE99 2BN

#### Decision (including any steps ordered)

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1. The complainant has requested information in relation to work place bullying. The council initially sought to refuse the request but subsequently provided the information following its internal review.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA as it took over the required 20 working days to provide the requested information.
3. As the council has now provided the information, the Commissioner does not require it to take any steps.

#### Request and response

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4. On 4 December 2015, the complainant made the following information request to the council:

*"This request is being made to make the public at large and people in each authority aware of which councils are the worst offenders or the better examples when it comes to bullying in the workplace.*

*All councils have very similar anti-bullying / dignity at work policies, but there seems to be a difference in the level of bullying. This is intended to statistically show those differences.*

*1) How many employees of your authority have made an official*

*complaint of harassment and bullying at work since the 1st April 2009?*

*2) How many of these complaints were upheld in favour of the complainant?*

*3) How many of those which were not upheld in favour of the complainant went on to Appeal?*

*4) How many of those that went to Appeal were found to favour the complainant?*

*5) How many complaints went on to an Employment Tribunal?*

*6) How many of these were found to uphold the complaint?*

*7) Out of how many of those allegations (the number given to question 1) did the complainant of bullying claim that the bullies were telling lies?*

*8) How many staff does your authority have and what is the current population within your authority's area?"*

5. The council provided its response on the 29 December 2015, stating that the council does not record this information centrally for the time period requested.
6. The complainant requested an internal review on the 2 January 2016 as he was dissatisfied with the council's response to his request because he considered simply stating that the information is not recorded centrally, is not a legitimate refusal of his request under the FOIA as no exemption was cited.
7. The council provided its internal review response on the 1 February 2016, but this time provided the information to the request.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 14 February 2016 because he considered that the council did not issue a valid refusal in its initial response and because of the time the council took to provide the information.
9. As the Council no longer sought to refuse the information following the internal review, but instead provided the information, the issue becomes

the time it took for the council to provide the information to the complainant.

10. The Commissioner therefore considers that the scope of the case is to determine whether the council breached section 10(1) of the FOIA in the time it took to provide the requested information.

## **Reasons for decision**

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### **Section 10(1) of the FOIA**

11. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) of the FOIA within 20 working days following its receipt.
12. Section 1(1) of the FOIA requires a public authority to provide the requestor with the information it holds falling within the scope of the request.
13. The complainant made his request on the 4 December 2015 and although the council provided its initial response within the 20 working days, it did not provide the requested information until the 1 February 2016. This being outside the 20 working days to provide the requested information and therefore breached section 10(1) of the FOIA.

### **Other matters**

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14. The complainant has also told the Commissioner that he considers the council deliberately withheld the requested information.
15. The council has responded to the Commissioner on this stating that it was not deliberately trying to withhold the information. It was because the officer who provided the initial response was not aware, at the time, that the information was available and mistakenly assumed that it would require a large search to generate the required response and would engage section 12 of the FOIA – to provide the information would exceed the appropriate limit - although the exemption was not applied in the response issued by the council.
16. It was at the internal review stage where it was found that the officer was mistaken as the information was compiled and readily available and so provided.
17. On reviewing the council's explanations as to why the information was not provided initially, the Commissioner is satisfied that the council was

not deliberately trying to withhold the information as it seems more plausible, based on the above explanations, that the officer was mistaken with the way the information was held rather than attempting to withhold it.

## Right of appeal

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18. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

19. 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.
20. 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**