

Freedom of Information Act 2000 (FOIA)

Date: 17 April 2018

Public Authority: Wigan Council
Address: Town Hall
Library Street
Wigan
WN1 1YN

Decision (including any steps ordered)

1. The complainant has requested recorded information on how the Council handles formal complaints that involve the harm of a vulnerable adult.
2. The Commissioner's decision is that Wigan Council has breached section 10(1) of the FOIA (time for compliance) by failing to provide the complainant with all relevant information (in this case a procedure) within 20 working days. The Commissioner finds that the Council has not breached section 1(1)(a) or 1(1)(b) of the FOIA because it confirmed it held the information and provided a working website link to some of it within 20 working days, and subsequently provided a further relevant document by the time the internal review was completed.

Request and response

3. On 9 January 2017 the complainant wrote to Wigan Council via the 'whatdotheyknow' website and requested information in the following terms:

'Please inform me whether or not you hold the information specified below. If you do hold the requested information please send me a copy.'

Regarding the formal complaint that you responded to in your 09/12/16 email copied below.

Please send me a copy of all the recorded information you hold in respect of how you handle such a complaint. In particular I wish to receive a copy of all information stating:-

** All that you must do and are legally obliged to do in respect of how you handle such a complaint.*

** What rights the complainant has to have the opportunity to discuss with you the matters they are complaining about.*

To remind you the 09/12/16 emailed formal complaint you received was in respect of very serious matters such as, for example; your response to a vulnerable adult claiming they had been harmed by a healthcare professional and also failed by various public bodies.'

4. The Council responded on 31 January 2017 with a link to Wigan Council's complaints webpage stating that copies of the Adult Social Care Complaints legislation and Wigan Council's Adult Complaints Factsheet could be found there. The Council's response also explained what the Factsheet included.
5. On 16 February the complainant contacted the Council to say that the link supplied was not working. The Council replied on the same day saying it believed that the link was working, but provided it again, and explained that the issue was one it had experienced previously with the 'whatdotheyknow' website. The Council did not consider the fault lay with the link, or its own website.
6. On 15 March 2017 the complainant requested a review of the Council's response as he did not believe it had provided a copy of all the recorded information held in respect of the information requested.
7. On 4 April the Council responded, confirming that the link supplied provided access to information held within the scope of the request.

However it acknowledged that the link did not include access to the Adult Social Care Complaints' Procedure and duly included this.

Scope of the case

8. The complainant contacted the Commissioner on 27 June 2017 to complain about the way his request for information had been handled. He did not consider that the Council had responded within 20 working days to confirm or deny it held information falling within the scope of the request, provide all relevant information, or otherwise issue a refusal notice.
9. The Commissioner considers the scope of the case to be whether the Council complied with its duty to respond to the complainant's request within 20 working days and provide all information falling within the scope of the request by the time the review was completed.

Reasons for decision

Section 1(1)

10. Section 1(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.'

11. The Council replied to the complainant's request with a link to its website where the requested information could be found, along with text from a relevant factsheet.
12. The complainant maintained that the link supplied did not work, and the Council provided it again.
13. On reviewing the Council's initial response to the complainant via the 'whatdotheyknow' website, the Commissioner found that the first link appears not to work. However, at the bottom of the Council's response, the 'whatdotheyknow' website extracts links to all those detailed in the Council's response, and this second link is working. The Commissioner notes that regardless of the second working link, as soon as it became

aware the first link was broken it provided another working link immediately.

14. The Council supplied additional information (a procedure) falling within the scope of the request as part of its review response. The Commissioner's position is that any procedural breaches, other than those relating to time limits, should be based on what the public authority had done by the time of the internal review. In this case the Council had both confirmed it held information falling within the scope of the request, and supplied it to the complainant by the time the internal review was completed, and therefore the Commissioner finds there is no breach of either section 1(1)(a) or 1(1)(b) of the FOIA.
15. On reviewing the information provided by the Council, the complainant considers there to be more information that the Council has not supplied, for example staff training information and training strategies. The Commissioner does not consider this information falls within the scope of the complainant's request. The complainant has also commented that the procedure supplied appears out of date. The Council confirms that this is the current procedure, and in any event it is not within the Commissioner's remit to judge the adequacy of information held.

Section 10(1)

16. Section 10(1) of the FOIA states:

'Subject to subsections (2) and (3), 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.'

17. The Council provided a working website link, and additional written text extracted from a Factsheet, within 20 workings days. However it only supplied the Adult Social Care Complaints' Procedure as part of its review response, which was outside of the 20 working day time for compliance. In this respect the Commissioner finds the Council breached section 10(1) of the FOIA.

Right of appeal

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
Website: 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