

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 June 2021

Public Authority: North Yorkshire County Council

Address: County Hall
Racecourse Lane
Northallerton
North Yorkshire
DL7 8AL

Decision (including any steps ordered)

1. The complainant requested information from North Yorkshire County Council (the Council) relating to an Ofsted inspection at Lady Lumley's School, Pickering in 2019. The Council had failed to provide a substantive response by the date of this notice.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, in accordance with its obligations under the FOIA, to the request.
4. The Council 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 pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

5. On 17 February 2021, the complainant wrote to the Council and requested information in the following terms:

"I have been advised by [Name], Customer Services Team to submit a Freedom of Information request in order for the authority to consider various questions I wish to raise in connection with the Ofsted inspection of Lady Lumley's school Pickering in October 2019.

My questions are:

- 1. The school's governing body decided to instigate legal action to contest the outcome of the inspection without seeking legal advice from the Council. If the Council had been asked for advice what would it have been?*
- 2. Did the Council make any attempt to persuade the school governors not to take legal action?*
- 3. The legal action resulted in court proceedings at the High Court in Manchester in January 2020 and later at the Appeal Court in London in March 2020. Why was no action taken by the Council to prevent the school from using its funds to pay for these hearings?*
- 4. On what date did the Council become aware of the legal costs of these hearings and how did it find out?*
- 5. Why did the Council only decide to prevent the school using its own funds to pay for legal representation when the school was due to put its case to the Supreme Court? My understanding is that despite the ruling preventing the use of school funds the school made a submission to the Supreme Court but without vital legal assistance.*
- 6. Did the Council contact Ofsted about the ongoing court proceeding (including the Supreme Court hearing)?*
- 7. In broad terms what was the content of the communication, if any?*
- 8. Has the Council previously exercised its power to prevent local authority schools using school funding to pursue legal action? If there are any examples please could you provide details.*

9. *Does or did Councillor Greg White, who represents Pickering, have or had any formal or informal contact or connections with School Academy Trusts or Chains? I am already aware that that he has made no official declaration of any current formal interest but I wish you to check that the official record is accurate and also to clarify if he has had any past formal links or any current or previous informal contacts or connections.*
 10. *If Councillor White has or has had any formal role with a School Academy Trust or Chain please could you provide details*
 11. *Did Councillor White have any formal or informal contact with either Ofsted or the Ofsted team which inspected Lady Lumley's school during October, 2019? This includes the time prior to the inspection, during the inspection and after the inspection.*
 12. *If Councillor White had any formal or informal contact with either Ofsted or its inspection team prior to the inspection, during the inspection or after the inspection did he discuss any concerns he may have has about the school and/or its governance? If so, what were his concerns?."*
6. The Council acknowledged the request on 17 February 2021 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 21 April 2021 to complain about the failure, by the Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 19 May 2021 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days.
9. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

10. Section 1(1) of the 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. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
12. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached section 10 of the FOIA.

Other matters

13. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF