

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 May 2022

Public Authority: Liverpool City Council
Address: Municipal Buildings
Room 221
Dale Street
Liverpool
L69 2DH

Decision (including any steps ordered)

1. The complainant requested information about the Nelson Mandela Memorial project at Princes Park. By the date of this notice Liverpool City Council ("the Council") had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under the FOIA.
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 31 January 2022, the complainant wrote to the Council and requested information in the following terms:

"Following a previous FoI which revealed some of the following information, I request information regarding the following;

The Section 106 contributions allocated towards the Nelson Mandela Memorial project at Princes Park had been received from the following developments;

- I. £8,702 - 37 Park Road (16F/0631)
- II. £18,749 - Brunswick Park Phase 3 - Junction Grafton Street, Park Street (16F/0841)
- III. £94,915.60 - 242-244 Upper Parliament Street (15F/0598)
- IV. £6,614 -2 Devonshire Road West (12F/1719)
- V. £39,600 - Bellerive College Site, Windermere Terrace, Liverpool, L8 3SB (15F/1992)
- VI. £70,000 - 68 Falkner St 23/04/21 (15F/2736)

£238,580 of section 106 money has been allocated for the delivery of the Mandela memorial in Princes Park.

1. How much of that £238,580 has left LCC accounts and been paid to a third party in the furtherance of this project.

2. Is it normal practice and is it best practice to allocate such large sums of money to a project that has not got planning permission, and has never gone before any planning committee?

3. Who has it been paid to and for what?

4. How and why was Wayward London Ltd commissioned to do this work. Who commissioned them and was the tender process open and competitive?

5. Can you provide details of all the other practices and individuals who submitted quotes or tenders for the work that was awarded to Wayward London Ltd. In terms of engagement; Africa Oye is one weekend, when people are not focused on community consultation. It is in Sefton Park and people come to it from all over the city and Merseyside more generally. I don't think it's a very good choice of event to get a good sense of what people who live in L8 and use Princes Park would think about the project. Friends of Princes Park Picnic is I'm presuming one day, not even that, a few hours in one day. So, in total the consultation process for lasted during the day in one weekend and for a few hours another day. This seems to me totally inadequate.

6. Can we see the raw data, report on the consultation? All documentation the provides evidence for how many people were

consulted and what their response was. Please make this anonymous and GDPR compliant. I'm not asking for names of who was consulted, just how many and what was said. The recommendation to allocate Section 106 contributions to the Nelson Mandela Memorial at Princes Park was made by the Section 106 Governance and Allocations Sub Committee, their decision was ratified by Cabinet. The dates of decisions made by Cabinet and amounts of Section 106 monies approved at the time have been listed below. In addition the names of the Cabinet Members who made up the Section 106 Sub Committee at the time the decision was made have also been highlighted below: I.02/08/2019 £100,000 [names redacted] II.24/04/2021 £70,000 [names redacted].

7. Did [name redacted] declare an interest as an unpaid patron of Mandela 8 when she approved these allocations as part of the Section 106 Sub Committee.

8. How long was she an unpaid patron? Was it from before 2nd August 2019? The hospitality register of interests that was updated April 2021 states that she was an unpaid patron of Mandela 8. When did Wendy Simon go to South Africa with the trustees of Mandela 8?

9. Were Mandela 8 paid for community consultation work, or for any reason, for their involvement in the Princes Avenue Steps Scheme <https://www.mandela8.org.uk/princes-avenue-steps-scheme/>

10. If so, how much and for what?"

6. The Council acknowledged the request on 3 February 2022. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 1 April 2022 to complain about the Council's failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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."

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
11. On 21 April the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF