

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 9 February 2015

**Public Authority:** The Coleshill School

**Address:** Coventry Road  
Coleshill  
Warwickshire  
B46 3EX

#### **Decision (including any steps ordered)**

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1. The complainant has requested from the Coleshill School (the "School") a copy of the Joint User Agreement between North Warwickshire Borough Council ("NWBC") and the School.
2. The Commissioner's decision is that the School has breached section 10(1) of the FOIA in that it failed to disclose the requested information within 20 working days of receipt of the request.
3. The Commissioner does not require the School to take any steps.

#### **Background**

4. On 25 May 2014 a named individual requested information from the School relating to the development of a Leisure Centre at the School and for a copy of the Joint User Agreement between NWBC and the School. This is a request in three parts in which part two asks for the Joint User Agreement document.
5. On 27 June 2014 the School wrote to the named individual and responded to each part of the request. The School's response to request two is as follows:

**Information request 2** – the School argued that it is unable to provide the complainant with a copy of the Joint User Agreement with NWBC as it has not yet been finalised. The School stated that this document will be a legal agreement between NWBC and the School.

## Request and response

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6. The complainant contacted the School on 2 July 2014 expressing his dissatisfaction with its response to the named individual concerning information request 2. He asked the School to conduct an internal review of its decision and to either release the document or advise which section of the FOIA the School is relying on to withhold it.
7. On 1 August 2014 the complainant contacted the School as it had not responded. He informed the School that if the requested document was not released to him then he would refer this matter to the Information Commissioner's Office (the "ICO").
8. On the same day the School informed the complainant that it would respond to his correspondence of 2 July 2014 by 9 September 2014.
9. The complainant returned to the School on the same day and expressed his view that the School had breached the FOIA. He argued that its response to the original request was more than 20 working days. The complainant repeated his request to see *"a copy of the Joint User Agreement whether in draft or finalised form."*
10. The complainant contacted the Commissioner on 8 August 2014 to complain about the way the request for information had been handled. The complainant expressed his dissatisfaction with the School's delays in responding and its failure to provide the document in the initial request.
11. The complainant has argued that the original request of 25 May 2014 was *"partially met"* by the School on 27 June 2014. He added that although the School had acknowledged receipt of his chaser letters and request for an internal review, the School had not submitted an adequate response and failed to provide the requested information.
12. On 11 September 2014 the School argued that as the complainant did not make the original request for information (25 May 2014) himself, that he did not have an entitlement to ask the School to conduct an internal review.
13. However, the School stated that it had noted in the complainant's correspondence dated 1 August 2014, his request to see a copy of the Joint User Agreement. The School informed the complainant that this will be dealt with as a new request for information under the FOIA.
14. The School argued that if it is able to provide the requested information, then under the FOIA the complainant's entitlement to receive it is within *"20 school days"*. The School clarified that this is counting the first

working day after the request is received as the first day (i.e. 2 September 2014).

15. The complainant contacted the ICO on 12 September 2014 with concerns about the concept of "school day" and if it exists in the legislation. The ICO confirmed to the complainant that the concept of a school day is the same as working days.
16. On 29 September 2014 the School provided its refusal notice to the complainant and applied section 22 of the FOIA to his request for information.

### **Scope of the case**

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17. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
18. Although the Commissioner had received confirmation that the complainant was acting on behalf of the named individual who made the request dated 25 May 2014, there is no evidence that the School had also received confirmation of this.
19. As the School had nothing to confirm that the complainant was acting on behalf of the named individual, the Commissioner will consider the complainant's own information request. Although the School treated this as being dated 1 August 2014, having viewed the correspondence the Commissioner considers that the complainant actually made his own request for this information on 2 July 2014 and it is this date upon which the School should have been acting.
20. The scope of this case will be to determine whether the School breached the FOIA in failing to disclose the requested Information within the time for compliance under section 10(1).

### **Reasons for decision**

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#### **Section 10 – Time for compliance**

21. Section 10(1) of the FOIA requires that a public authority complies with section 1(1) promptly and in any event not later than 20 working days following the date that a request was received.
22. On 2 July 2014 the complainant requested to see a copy of the Joint User Agreement. Having received no response he requested an internal

review on 1 August 2014 which was treated by the School as a new information request under the FOIA.

23. The School provided its refusal notice to the complainant on 29 September 2014 and applied section 22 of the FOIA, information intended for future publication.
24. On 2 October 2014 following the involvement by the Commissioner, the complainant contacted the School and expressed his dissatisfaction with its response. The complainant noted to the School that a date had not been given for the publication of the document he requested (the Joint User Agreement). He therefore requested an internal review by the School.
25. On 8 October 2014 the School provided the complainant with the information he requested. The Commissioner has noted that this is 40 working days from 2 July 2014, the date of the information request.

### **Conclusion**

26. The Commissioner's decision is that the School did not handle the request for information in accordance with the FOIA. The School has breached section 10(1) of the FOIA by failing to disclose the requested information within the statutory timeframe of 20 working days.

## **Right of appeal**

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27. 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: 0116 249 4253

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)

28. 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.
29. 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 .....**

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