

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

### **Decision notice**

**Date:** 13 July 2018

**Public Authority:** Thanet District Council  
**Address:** Hawley Square  
Margate  
Kent  
CT9 1NY

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

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1. The complainant requested information about the number of councillors and members of the corporate management team who had been in arrears on their council tax.
2. The Commissioner's decision is that Thanet District Council ("the Council") failed to respond to the request within 20 working days and has therefore breached Section 10 of the Freedom of Information Act ("the FOIA").
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, 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

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5. On 28 January 2018, the complainant wrote to the Council and requested information in the following terms:
- “Details of all occasions where Thanet Councillors (Members) or members of the corporate management team (CMT) fell into arrears on their Council Tax in the period 1st January 2015 to 1st April 2017 inclusive. For ease of use I would prefer this information in the format below for each occasion.*
- *Name of Councillor or SMT member*
  - *Month arrears started*
  - *Month arrears end*
  - *Number of months in arrears.”*
6. The Council did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 6 April 2018 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 12 April 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The Commissioner chased the correspondence again on 14 May 2018 and informed the Council that she was minded to issue a decision notice. The Council did respond to this correspondence to say that it had prepared a response. Unfortunately a misunderstanding then appears to have occurred which is dealt with below.
10. The complainant contacted the Commissioner again on 27 June 2018 to note that he had still not received a response to his request. The Commissioner subsequently attempted to contact the Council on several occasions but received no meaningful response. In view of the length of time since the request was first made and in view of the Council's unwillingness to engage, the Commissioner is of the opinion that she is

left with no option but to issue a decision notice in this case – considering the Council's compliance with Section 10 of the FOIA.

## Reasons for decision

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11. 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.*

12. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

14. 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.*"

15. 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

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16. On 12 May 2018, the Commissioner contacted the Council to say that she was minded to issue a decision notice because of the lack of a response to the complainant's request. The Council's response to that email was thus:

*"There has been an administration error on our part and we do, in fact, have the information ready to send to [the complainant]."*

*"Would it be acceptable to the Commissioner for us to respond to the requester?"*

*"[We] await your instructions."*

17. As it initially appeared that a response to the request was imminent, the Commissioner decided that it would be disproportionate to issue a decision notice at that time and that no further response, from her, was necessary.
18. However, it became apparent on 27 June that the Council had not responded to the request. The Commissioner has sought an explanation from the Council as to the reason for the delay but none had been provided at the date of this notice.
19. The Commissioner is unclear as to why the Council felt that it needed to await her instructions or why her approval was necessary in order to issue a response. She therefore does not consider that this would be an acceptable reason to delay responding to the request. The Commissioner also notes that she allowed the Council a considerable amount of additional time, once this misunderstanding had come to light, to provide its response before deciding to issue this notice.

## Right of appeal

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20. 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)

21. 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.
22. 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**