

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 February 2022

Public Authority: Workington Town Council
Address: Princess Street
Workington
Cumbria
CA14 2QG

Decision (including any steps ordered)

1. The complainant requested from Workington Town Council (“the Council”) information relating to advice the Council had received from Cumbria Association of Local Councils (CALC). By the date of this notice 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 20 November 2021, the complainant wrote to the Council and requested information in the following terms:

"I write to request a copy of any written request for advice (paper or electronic) or contemporaneous note of any oral request for advice from CALC by anyone acting in an official capacity for the Council (including but not limited to the Mayor, a Committee Chair, and the Clerk), and a copy of any written or email response or contemporaneous note of any oral response, from CALC, prior to 11th October 2021, in respect of

- a) any proper basis for exclusion of newly elected councillors from the meeting on 11th May 2021;
 - b) any proper reason why the provisions of s83(4) of Local Government Act 1972 should not apply in the case of those councillors not having made Declarations of Acceptance of Office before or at the 11th May Council meeting.
 - c) any other advice which the Council sought or received which could reasonably be seen as having a bearing on these issues, on the matter of the May by-elections, on the assumption of office by those elected councillors, and the position of those councillors subsequent to 11 May 2021."
6. Whilst the Council has not acknowledged this request, the complainant has provided evidence which shows that the request was sent to the Council's published email address. Therefore, the Commissioner has assumed that the request was received by the Council.
7. By the date of this notice, the Council has not provided the complainant with a substantive response to their request.

Scope of the case

8. The complainant contacted the Commissioner on 22 December 2021 to complain about the Council's failure to respond to their request.
9. 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

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(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”.

12. On 11 January 2022 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.

13. Despite this intervention, the Council has failed to respond to the complainant.

14. 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 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

15. 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

16. 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.
17. 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