

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 November 2023

Public Authority: Waverley Borough Council

Address: The Burys
Godalming
Surrey
GU7 1HR

Decision (including any steps ordered)

1. The complainant requested information from Waverley Borough Council (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority has breached section 10(1) of 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 public authority to take the following step to ensure compliance with the legislation.
 - The public authority must provide a substantive response to the request (that it allocated their reference number AI2/5369), in accordance with its obligations under FOIA.¹

¹ The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)

4. The public authority 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made their request via the public authority's online form and received an acknowledgement from the public authority on 9 July 2023. Although the acknowledgement did not contain a copy of the wording of the request, the request was allocated the reference number AI2/5369.
6. On 22 September 2023, the complainant chased the public authority for a response.
7. On 16 October 2023, the public authority advised the complainant that:

"I have investigated your matter and can see that the request when submitted had unfortunately timed out, so we did not receive it when requested. I have now been sent the details from our IT team and will get your request logged and processed."
8. The complainant queried the meaning of the above statement and the public authority responded that:

"If the person submitting the request takes time to do this, then this does not reach our system correctly and is held as an aborted case, but I cannot see this.

I contacted the IT team and they investigated this for me and found your details. Unfortunately, I am now aware that the applicant still receives a reference number which makes this rather confusing for both parties. I have now asked IT to investigate if there is anything we can do to rectify this."

Reasons for decision

9. Section 1(1) of 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 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 2 November 2023, the Commissioner wrote to the public authority, 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 public authority has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority 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 FOIA.

Other matters

14. The Commissioner would advise the public authority to investigate whether any other information requests have been missed because they “timed out”. It would also be advisable to take appropriate action to ensure that the issue is addressed in order to prevent valid future requests being overlooked.

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

Roger Cawthorne
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