

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

### **Decision notice**

**Date:** 19 January 2024

**Public Authority:** Ards and North Down Borough Council

**Address:** Town Hall  
The Castle  
Bangor  
BT20 4BT

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

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1. The complainant contacted the Commissioner for a decision on the time taken by Ards and North Down Borough Council ("the Council") to respond to their information requests. The complainant stated that, while the Council was responding to their requests within the statutory timeframe of 20 working days, they did not believe that the Council was behaving within the spirit of FOIA as it was failing to provide its responses promptly.
2. The Commissioner's decision is that the public authority has not breached section 10(1) of FOIA and has provided valid responses to the complainant's requests promptly and within the statutory time frame of 20 working days. No steps are required.

#### **Request and response**

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3. On 23 May 2023, the complainant made the following request for information:

"Can you provide all correspondence, both internal and external, in respect of the following 2 planning complaints made by me back in September 2020

1. Railwayview Street, Bangor LA06/2020/0198/CA

2. LA06/2020/022/CA – also under COR 2023 083 – Coastal Path between Brompton and Stricklands”
4. The public authority responded to the request for information on 21 June 2023 providing the requested information subject to redactions under regulation 13(2A)(a) (personal data) of the Environmental Information Regulations (EIR). The complainant has not sought to challenge the Council’s application of this exception to the requested information.
5. On the same day, the complainant wrote to the Council to complain that it had taken 20 working days to respond to their request and ask it to explain its understanding of the legislation.
6. The Council responded on 23 June 2023 advising of its obligations under section 10(1) of FOIA.
7. The complainant responded the same day making a further information request in the following terms:

“I assume for compliance and for the ICO you need to keep records of the time durations taken to provide your responses.

If that is the case can you provide the average time taken for the Council to respond to an FOI request by year over the past five years.”

8. On 24 June 2023 the complainant made a further request in the following terms:
  - “1. Do you hold this data already for such things as internal compliance or in case of requests or monitoring from the ICO?
  2. Can you also provide the actual time spent on this request? I know you monitor that on an individual basis in case it exceeds the allocated ‘free’ time allowed to be spent on an individual request.”
9. The Council responded on 26 June 2023 providing information within scope of the complainant’s request of 23 June 2023. In respect of the complainant’s further request of 24 June 2023, the Council explained that it did not hold information within the scope of part [2] of the request as it does not generally record the processing time of FOI and EIR requests. The Council explained:

“Where a request is received and it is considered the request may exceed the cost/time limit, the time to process the request would be estimated in-line with the Information Commissioner’s Office guidance ‘Requests where the cost of compliance exceeds the appropriate

limit'. As it was considered that the cost/time limit did not apply in the case of EIR40/23-24/012, the time was not estimated or a record taken of time spent on the request and therefore no recorded information is held regarding this part of your query."

10. On 11 July 2023 the complainant wrote to the Council in the following terms:

"So I have done a quick analysis of the time you took to respond to my FOI requests over the last 6 months up to this reply and most of mine take the maximum 20 days exactly and the average is 19 days. At this stage I wish to complain that I believe this shows delays are being artificially inserted for my requests and information is not being supplied when it could be.

Can this be lodged as an official complaint and I request an explanation for the discrepancy."

11. On 3 August 2023 the Council provided its internal review. The Council stated that:

"You submitted 18 FOI requests and 2 Internal Review Requests (including this one) to the Council since December 2022. The Internal Review has considered the length of time taken to respond to these request and found that there is no evidence of artificial delays being created in responding to your requests.

The length of time it takes Council to process a request varies depending on how complex the request is, how much information there is to review, the workload of the service units who requests are circulated to, and the number of other cases that are being worked on at a point in time. Priority is given to ensuring new requests are logged and distributed internally and those cases where the twenty day deadline is the soonest.

It is not the case that as soon as a request is circulated to a service area that they can immediately action the request as they will have to factor the request into their workload.

Similarly, with other requests being worked on, as soon as a service area provides information it cannot immediately be processed and a response issued. There will be other matters being worked on that have priority, with the aim of responding to as many requests as possible within the twenty working day statutory time limit."

12. Following receipt of their internal review, the complainant made further requests and raised a formal complaint with the Council regarding the timeliness of its responses.

### **Scope of the complaint**

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13. The complainant wrote to the Commissioner on 3 October 2023 to complain about the Council's handling of their information requests.
14. In their grounds of complaint, the complainant asserted that the Council is artificially inserting delays when responding to their information requests, and, while it is remaining within the limit prescribed by FOIA for responding to requests, it is not behaving within the spirit of the legislation by responding to his requests promptly. The complainant notified that they had raised a separate complaint about this matter with the Northern Ireland Public Service Ombudsman ("NIPSO").
15. The Commissioner considers the scope of the investigation to be whether the Council has responded in accordance with its obligations under section 10(1) of FOIA.

### **Reasons for decision**

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16. 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."
17. 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".

18. The Commissioner's guidance on Time limits for compliance under the Freedom of Information Act (Section 10)<sup>1</sup> explains the following:

"Your obligation to respond promptly means you should comply with a request as soon as is reasonably practicable...

If you provide your response close to, or on the final day of the 20-working-day limit, you ought to be able to both account for, and justify, the length of time taken to comply with the request."

19. The Commissioner wrote to the Council in respect of the complainant's position. The Council provided the Commissioner with a data table recording a total of 19 requests it had received from the complainant since December 2022 (as of the date of the Council's submissions) and showing the length of time taken to respond to each request. By the Commissioner's calculations, it has taken the Council an average of just over 17 days to respond to the complainant's requests. The Commissioner also notes from the data that it has taken the Council between a range of 10 to 20 days to respond to the complainant's requests and that the requests cover a wide range of topics, therefore necessitating the input of a wide range of Council services.
20. The Council also reiterated its position as detailed in its internal review. It added that, having reviewed the requests from the complainant the internal review panel determined that they fell within a range of subject matter, some being more complex than others, some with more information to be reviewed and internal consultations sent to a range of individuals and services.
21. The Commissioner considers that the account of its request handling given by the Council demonstrates a measured, reasonable and fair approach. Whilst the Commissioner expects all Council staff to recognise their obligations under FOIA, EIR and data protection legislation, he accepts that they must balance those obligations against other day-to-day tasks that they are required to undertake. He recognises that service areas handling requests often have competing priorities.
22. Even with "straightforward" requests, the public authority must still consider the request, ensure that it has properly understood what the request is asking for and checked that there is no additional information it holds. This often involves liaison between the information governance

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<sup>1</sup> <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/time-limits-for-compliance-under-the-freedom-of-information-act-section-10/#whatisthe>

team (or equivalent) and the relevant department(s) within the public authority that would hold relevant information.

23. From the evidence provided to the Commissioner in this case, he is satisfied that the public authority dealt with the complainant's requests for information both promptly and within 20 working days, and therefore in accordance with FOIA. The Commissioner finds that the public authority has not breached section 10(1).

## Right of appeal

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24. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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 .....**

**Jonathan Slee**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**