

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 February 2013

Public Authority: South Hams District Council
Address: Follaton House
Plymouth Road
Totnes
Devon
TQ9 5NE

Decision (including any steps ordered)

1. The complainant requested information concerning car park charges from South Hams District Council (the council). The council initially responded beyond the statutory timeframe, stating that the information was not held but subsequently provided the requested information at internal review stage. The complainant requested that a decision notice be issued by the Information Commissioner recording the delay.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA by issuing a response outside the legislative timeframe. As the council has now provided a substantive response, the Commissioner does not require any remedial steps to be taken.

Request and response

3. On 1 June 2012, the complainant wrote to the council and requested information in the following terms:

"[complainant] would like SHDC to provide all information relevant to car park charges and the possible introduction of car park charges held by SHDC since the election in 2011.

In addition the [complainant] particularly requests a copy of the complete research and report compiled by [named person] into potential income from the 3 car parks at Beesands, Aveton Gifford and South Brent together with information on the current status of proposed parking charges from Beesands and Aveton Gifford."

4. Several chaser emails were then sent from the complainant. The council responded on 17 July 2012 stating that it did not hold the requested information but provided some analysis related to the request.
5. On 26 July 2012, the complainant asked for a review to be conducted of the council's response.
6. After further correspondence, an internal review was provided on 3 August 2012 acknowledging the original delayed response. The review stated that the council did hold information relevant to the request and provided copies of that information.

Scope of the case

7. The complainant contacted the Commissioner on 17 September 2012 to complain about the way her request for information had been handled. Part of that complaint involved matters beyond the Commissioner's remit. However, the complainant accepted that the FOIA only concerned recorded information and the complaint was confined to the lateness of the response.
8. Therefore the Commissioner considers that the focus of this complaint was to consider whether there had been a breach of section 10(1) by the council in its handling of the complainant's request.

Reasons for decision

9. Section 10(1) of the FOIA provides:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."
10. The Commissioner notes that, although the council had responded on 17 July 2012 stating that the requested information was not held, it was already outside the statutory timeframe. The council provided the requested information on 3 August 2012 at the internal review stage.
11. The complainant requested that the breach of section 10(1) be formally recorded.

12. Therefore the Commissioner has recorded a breach of section 10(1) of FOIA. Although this breach does not necessitate remedial action, the council should ensure that there is no repetition of this delay in relation to future information requests.

Right of appeal

13. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

14. 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.
15. 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