

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 September 2015

**Public Authority:** Braintree District Council  
**Address:** Causeway House  
Bocking End  
Braintree  
CM7 9HB

#### Decision (including any steps ordered)

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1. The complainant has requested information with regards to rent paid by tenants in a named area. Braintree District Council (the council) provided a response, after a complaint was made to the Commissioner by the complainant that the response was overdue. The council refused the request under section 14(1) of the FOIA as it considered it a vexatious request. Following the response, the complainant asked the Commissioner to issue a decision notice recording a breach for the time it took the council to respond to his request.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA as its response was provided outside the required 20 working days.
3. As the council has now provided its response, the Commissioner does not require it to take any steps.

#### Request and response

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4. On 19 May 2015, the complainant wrote to the council and requested information in the following terms:

*"This is a request under the freedom of information act of 2000, and is a request for the following.*

*All rent paid by the various tenants of the whole estate recorded individually , of Perry Road Enterprise area Estate Witham*

*Essex, which is on the South East side of the industrial estate, Witham Essex., between the dates of December 2007, and December 2009, and how frequently they were paid, and how much. The actual amount of rent of each unit annually, and full record of all the names of tenants, and the full record of rent paid by the various tenants between the above dates, and the frequency of their pay.*

*Further how much industrial rates were paid by individual units, and how frequent, for each unit, and the full record of it all."*

5. The complainant then contacted the Commissioner on the 16 June 2015. He advised that other than an automatic confirmation email, he has not received a response from the council. He provided the Commissioner with a copy of the automatic response dated 22 May 2015.
6. The Commissioner contacted the council, who advised that they have no record of the request being received. The Commissioner provided the council with a copy of the complainant's request on the 1 July 2015 and asked that it issue a response to the complainant within 20 working days.
7. The complainant contacted the Commissioner again, on the 28 July 2015, to advise that the council has still not responded to his request.
8. Following further contact from the Commissioner, the council issued a response to the complainant's request on 7 September 2015. It refused the information relying on section 14(1) of the FOIA as it considered it to be vexatious.

## **Scope of the case**

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9. Following the council's response, the complainant has asked the Commissioner to issue a decision notice recording a breach of the council's response time to this request.
10. The Commissioner considers the scope of the case is to determine whether the council breached section 10(1) of the FOIA, by not issuing a response within the required 20 working days.

## **Reasons for decision**

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11. Section 10(1) of the FOIA requires a public authority to respond to an information request within the permitted 20 working days from receipt of the request being received.

12. The council told the Commissioner it did not have a record of receiving the initial request on the 19 May 2015. However the Commissioner did provide it with a copy of the request on the 1 July 2015 and the complainant provided a copy of an email receipt dated 22 May 2015.
13. The council's response to the request was issued on the 7 September 2015, and so even if the 1 July 2015 was considered as the sent date, the response was not provided until after 2 months from receipt. This is clearly outside the required 20 working days to respond.
14. The Commissioner accepts that, for whatever reason, a request can sometimes either get misplaced or not get through to a public authority. However, he would expect that, following contact from the Commissioner providing a further copy of the request, the council would ensure steps are put in place so that a response is issued to the complainant within the further 20 working days. He notes that this was not done in this case.
15. The Commissioner finds that the council has breached section 10(1) of the FOIA.

## Right of appeal

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16. 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)

17. 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.
18. 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**