

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 1 December 2016

**Public Authority:** Halton Borough Council  
**Address:** Municipal Building  
Kingsway  
Widnes  
Cheshire  
WA8 7QF

#### Decision (including any steps ordered)

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1. The complainant made a request for information on 28 March 2016. The council did not respond to the complainant until 16 May 2016. Further to this the council did not respond to the complainant explaining that some of the requested information was not held by it until 11 July 2016.
2. The Commissioner's decision is that the council has failed to comply with Regulation 5(2) in that it failed to respond to the complainant's request within 20 working days. Whilst the council did seek to use Regulation 7(1) of the Act to extend its time for responding to the request to 40 working days it failed write to the complainant informing him of this within the initial 20 working day period as required by Regulation 7(3).
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 28 March 2016 the complainant wrote to the council and requested information in the following terms.
5. *"We have previously raised a request for information under the freedom of information act. We then made a complaint to Halton Borough Council concerning a new bin collection point to the rear of [address redacted], Widnes. We now request all information you hold about this matter starting from the last lot of information you supplied. The council officer who dealt with this matter last time was Jimmy Unsworth.*  
  
*Please include all notes, drafts, photographs, information from meetings, information of other peoples comments/complaints concerning the private highway, costing to the council in dealing with this matter. This list is not exclusive we ask for all information starting from the completion of the last request except the costing which is to include from the first person who complained about bins to the side of his house."*
6. The exact wording of the request was not recorded as the request was made via the council's online request tool. The complainant has therefore paraphrased the request as he remembers making it.
7. The council accepts that it received the request on 28 March 2016. It acknowledged to the receipt of the request on 30 March 2016 and provided the complainant with a reference number for his request.
8. The council then wrote to the complainant on 27 April 2016 stating that there was a delay in processing the complaint due to the volume of information which the complainant had requested.
9. On 16 May 2016 the council responded and disclosed 5 emails which it considered to be the requested information.
10. The complainant wrote to the council again on 30 May 2016 asking for an explanation as to the delay and stating that not all of the information had been disclosed to him. The council replied on the same date. It offered the complainant a specific apology for the delay and said that this was due to the amount of information which he had requested.
11. On 9 June 2016 it responded to a further part of the initial request which it had not initially addressed. It confirmed that the information which the complainant had said was not provided was not in fact held. It also stated that it was not sure what other information the complainant

believed was missing. The complainant wrote back to say he believed a further email was missing from the documents provided to him.

12. The council then wrote to the complainant on 11 July 2016 informing him that no further email had been found and that it considered that it had disclosed all of the information it holds.

### Scope of the case

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13. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He considers that the council has failed to comply with the requirements of section 10(1) of the FOI Act.
14. The complainant did not make a complaint as to whether further information is held by the council or not. The Commissioner has not therefore investigated or addressed this within this decision notice.

### Reasons for decision

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#### Is the information environmental information?

15. The request relates to the change in bin collection points by the council. The information falling within the scope of the request relates to the actions taken by the council in order to plan and carry out the change.
16. Section 2 of the EIR defines environmental information as:
  - (a) *the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;*
  - (b) *factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);*
  - (c) *measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;*
  - (d) *reports on the implementation of environmental legislation;*
  - (e) *cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c);*

*and*

*(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);*

17. The Commissioner considers that the requested information is on an administrative measure relating to waste collection, which in turn is likely to affect the elements of land. He therefore considers that the information is environmental information for the purposes of the EIR.

#### Regulation 5

18. Regulation 5(1) of the EIR states that:

*Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.*

19. Regulation 5(2) provides that:

*Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.*

#### Regulation 7

20. Regulation 7 (1) provides that:

*Where a request is made under regulation 5, the public authority may extend the period of 20 working days referred to in the provisions in paragraph (2) to 40 working days if it reasonably believes that the complexity and volume of the information requested means that it is impracticable either to comply with the request within the earlier period or to make a decision to refuse to do so.*

21. Regulation 7(3) provides that:

*Where paragraph (1) applies the public authority shall notify the applicant accordingly as soon as possible and no later than 20 working days after the receipt of the request.*

22. The Regulations therefore require that an authority responds to a request within 20 working days from the day after it receives the request unless it writes to the requestor and extends that period to 40 working days and explains the reasons why it has done so. Under

Regulation 7(3) the authority must write to the requestor informing him that it is extending the time to respond within 20 working days.

23. The Commissioner notes that the council informed the complainant that it was extending the timeline and could not respond within 20 working days. It therefore applied Regulation 7(1). It did not however write to the complainant informing him of this until 27 April 2016. The request was made on the 28 March 2016. Even taking into account the public bank holiday during this period (on the day of the request), the notification falls outside of the period of 20 working days which is required by Regulation 7(3).
24. The Commissioner therefore considers that the council failed to comply with the terms of Regulation 7(3) and so did not successfully apply the extension to time for responding under section 7(1).
25. The Commissioner therefore considers that the council's responses of 16 May 2016 and 9 June 2016 fell outside of the period of 20 working days required by Regulation 5(2).

## Right of appeal

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26. 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)

27. 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.
28. 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** .....

**Mr Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**