

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2018

Public Authority: Newcastle-under-Lyme Borough Council
Address: Merrial Street
Newcastle-under-Lyme
ST5 2AG

Decision (including any steps ordered)

1. The complainant has requested information from Newcastle-under-Lyme Borough Council ("the Council") relating to a specific property.
2. The Commissioner's decision is that the Council has breached section 10 of the FOIA since it failed to provide a substantive response to the requests within the statutory timeframe of 20 working days.
3. As a response has now been provided, the Commissioner does not require the Council to take any steps.

Request and response

4. On 8 December 2017, the complainant wrote to the Council and requested information in the following terms:

"I require a copy of all the applications – including but not limited to planning and pre application advice - submitted to the Council in connection with [redacted] of [redacted address]... If no application was made then please confirm prompt enforcement action will be taken to secure the removal of [redacted] and if not why not.

Please provide me with a copy of all the applications – including but not limited to planning and pre application advice - made to the Council for the installation of [redacted] and if no application was made then please confirm prompt enforcement action will be taken to secure their removal and if not why not.

Given the anti-social behaviour that has resulted from the use of [redacted address] then please explain why a Community Protection Notice has not been served on the tenants [names redacted] and/or owners [names redacted].

As regards the intended use of the downstairs at [redacted address]... (as) a shop... please provide me with a copy of all the applications made to the Council to carry out those works – to include but not limited to planning and pre application advice - and if no applications were made then please confirm prompt enforcement action will be taken to stop any further works taking place and to undo those works that have been done.

Please provide me with a copy of the signed and dated application made to your Council for a licence for [name redacted] to [redacted] at [redacted address] together with a copy of the signed and dated licence granted to him by your Council to [redacted].

I also want to know why - in online documents on the planning section of your website relating to the change of use application made in [redacted] in connection with the upstairs of [redacted address] - further documents which include an application form and certificate and location plan were added on the 20 September 2016.

It has also become apparent this year that having used the downstairs of [second redacted address] for a number of years as a dumping ground for all sorts of waste - which has been able to be viewed by any passer-by during that period - that the owner of that property namely [redacted name] has carried out building works including the replacement of 2 large windows and internal works... Please provide me with a copy of all the applications made to the Council to carry out those works – to include but not limited to planning and pre application advice - and if no applications were made then please confirm prompt enforcement action will be taken to stop any further works taking place and to undo those works that have been done. I also want to know why your Council did not take action either under anti-social behaviour legislation or other legislation to stop the use of the downstairs of [second redacted address] for a purpose which was clearly inappropriate and dangerous including the storage of waste some of which was combustible in a property which adjoined residential property.

Please therefore provide me with copies of all the applications made to your Council relating to the disposal of such waste from those premises together with copies of all Council reports of inspections and investigations carried out by your Council into that disposal."

5. The complainant also made the following request on 11 December 2017:

"Given the evidence I provided with my e mailed letter of the 8 December 2017 and which supported my request for certain prompt enforcement action being taken... then I require details of each of the persons (and their positions) involved in each of the matters I asked prompt enforcement action be considered or taken including the dates when each one of those matters passed through the hands of those named persons and the specific action each named person took such as inspections and decisions and the dates thereof."

6. The complainant also made the following request on 13 December 2017:

"If any Council staff who provided statements or accounts to [redacted] are involved in an way whatsoever either directly or indirectly in dealing with any of the matters raised in those letters and this letter then please provide me with their names and positions and actual involvement they had together with the dates of their involvement up to and including the provision by your Council of the answers asked for in my 3 letters to date.

[Redacted] please provide me with copies and details of all communications of all types – to include but not limited to e mails, texts, social media, letters as well full details of telephone conversations – between Council staff and [redacted] in connection with the matters raised in my letters to your Council dated the 8 & 11 December 2017 and this letter up to and including the provision of the answers asked for in my letters to date."

7. The Council issued a response to the requests of 8 December 2017, 11 December 2017 and 13 December 2017, on 29 January 2018.

Scope of the case

8. The complainant contacted the Commissioner on 11 January 2018 to complain about the way his requests for information had been handled. At that stage, no response to his requests had been received.
9. The Commissioner considers that the scope of the case has been to consider whether the Council has handled the requests in accordance with section 10(1) of the FOIA.

Reasons for decision

Section 10 – Time for compliance

10. Section 10(1) of the FOIA states that a public authority must respond to a request *“promptly and in any event not later than the twentieth working day following the date of receipt.”*
11. From the information provided to the Commissioner in this case, it is evident that the Council did not respond to the requests within the statutory timeframe of 20 working days. She has therefore found the Council to be in breach of section 10(1) of the FOIA.

Right of appeal

12. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. 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.
14. 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

Alun Johnson
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