

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 October 2020

**Public Authority:** City of York Council  
**Address:** West Offices  
Station Rise  
York  
YO1 6GA

#### Decision (including any steps ordered)

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1. The complainant requested from the City of York Council (“the Council”) information relating to the Council’s compliance with section 65 of the 1992 Local Government Act. By the date of this notice the Council had not issued a substantive response to the complainant’s request.
2. The Commissioner’s decision is that the Council has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - The Council must issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 17 February 2020, the complainant wrote to the Council via the What Do They Know website and requested information in the following terms:

*"Accordingly please, in regard to 1) please will you evidence the consultation process that led the monitoring officer to assure herself the law had been obeyed.*

*Please provide all the recorded information on what consultations on the draft budget, draft cuts and draft capital programme were sent out to whom, when, what public notices were posted to the business community, what presentations and meetings were held and when on the draft budget, the cuts and the draft capital programme?*

*2. Regarding the second point, the bar is far higher than merely 'acknowledging' its public sector equalities duty. Please evidence first how the public sector equalities duty is 'acknowledged' and why individual assessments are not made prior to the five days of consultation where the full budget papers are published. See how NYCC does this in conjunction with its budget. Yet York Councillors & citizens are denied these.  
<https://www.northyorks.gov.uk/equality-i...>*

*3. Specifically regarding the increases in fees and charges, where are the impact assessments? These will be implemented on April 1.*

*4. Regarding the statement that 'various parts of the financial strategy will need more detailed and bespoke equalities impact assessments' . Which parts will need what and by when? Can a schedule be provided of which capital and revenue spending and cuts will benefit from equalities impact assessments, which will not. Since there is no indication ( and no history of such) can this be clarified ahead of budget Council?*

*Considering the full budget papers (such as they are) were published only 5 working days before the budget Exec the window for consultation was quite limited.<sup>1</sup>*

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<sup>1</sup> [https://www.whatdotheyknow.com/request/statutory\\_duty\\_to\\_consult\\_busine](https://www.whatdotheyknow.com/request/statutory_duty_to_consult_busine)

6. On the same day, the Council acknowledged this request.
7. On 17 March 2020, as the complainant had not received a response to her request, she wrote to the Council and requested an internal review.
8. The Council responded to the complainant on 18 March 2020 and it apologised for the delay in responding to her information request. The Council stated that it would prioritise the request.
9. The complainant again wrote to the Council again on 17 August 2020 as she had not received a response to her information request.

### Scope of the case

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10. The complainant contacted the Commissioner 17 August 2020 to complain about the Council's failure to respond to her request.
11. The Commissioner contacted the Council on 18 September 2020 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. The Commissioner also contacted the complainant on 18 September 2020 to explain that the Council had been given 10 working days within which to provide a response to their request.
13. The complainant has provided evidence that she has received acknowledgements from the Council but, by the date of this notice, had not received a substantive response to her information request.
14. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

### Reasons for decision

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15. Section 10 of the 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.*

16. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.
17. Section 10 of the FOIA states that responses to requests made under the Act must be provided, "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
18. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached section 10 of the FOIA.

## Right of appeal

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19. 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@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)

20. 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.
21. 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** .....

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**