

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 April 2021

Public Authority: Trowbridge Town Council
Address: The Civic Centre,
St Stephen's Place,
Trowbridge,
BA14 8AH

Decision (including any steps ordered)

1. The complainant requested a Data Compliance Report from Trowbridge Town Council.
2. Trowbridge Town Council refused the request under Section 14 of the FOIA. However, during the Commissioner's investigation it disclosed the requested information on an informal basis.
3. The Commissioner's decision is that Trowbridge Town Council has breached Section 10 of the FOIA by not disclosing the requested information within 20 working day. However, as the information has since been disclosed she does not require any steps to be taken.

Request and response

4. On 26 February 2020 the complainant wrote to Trowbridge Town Council (the Council) and made the following information request:

"Please send me a full copy of the Data Compliance Report, received from your data protection officer in July 2019.

This recorded document is mentioned in the Leisure and information services committee report dated 25th February 2020 at item number 6.1.2, which briefly summarises the Risks and actions required and was discussed by committee councillors in the public forum on 24th February 2020. I wish to read the full report, rather than just a brief summary of it".

5. The Council responded on 27 February 2020 and refused the request under Section 14 of the FOIA on the basis that it was vexatious.

6. On 27 February 2020 the complainant requested an internal review. The Council responded within hours the same day suggesting the requested information was available on its website and referred the complainant directly to the Commissioner.
7. The complainant disputed the requested information was available.

Scope of the case

8. This Decision Notice should be read in conjunction with Decision Notice IC-43806-C0Y6 which relates to a request made to the Council by the complainant on the same day. The Council responded to both requests in a single communication classifying them as vexatious.
9. The complainant contacted the Commissioner on 27 February 2020 to complain about the way his request for information had been handled. In particular, he was unhappy with the Council's decision to classify his request as vexatious and its failure, in his opinion, to carry out a proper and comprehensive internal review.
10. The Commissioner contacted the Council on 19 August 2020.
11. Following the Commissioner's intervention, the Council disclosed the requested information on 21 August 2020 in an attempt to resolve the matter informally. However, it still maintained it was correct to classify the request as vexatious when it was first submitted.
12. The Commissioner discussed the matter with the complainant over the telephone on 21 August 2020 and said as the requested information had been disclosed it was somewhat academic to issue a Decision Notice (DN) regarding the Council's application of Section 14 of the FOIA. However, she did agree it would be possible to issue a DN recording his dissatisfaction with the way in which the Council had handled his request and the late disclosure of the requested information.
13. The Commissioner is mindful of the effect that dealing with such complaints when information has been disclosed, will have, both in relation to her duty to make effective use of her finite resources, and in ensuring that her office and the FOIA are not brought into disrepute by progressing complaints which do not justify serious consideration.
14. While recognising the complainant's concerns at the way in which his request for information was handled, the Commissioner is also mindful that he has been provided with the requested information.
15. Accordingly, in a case such as this, the Commissioner would not normally consider it either necessary or an appropriate use of her

regulatory resources to progress the complaint about the Council's application of Section 14 further.

16. However, given the circumstances of this case, the complainant's views on the Council's application of Section 14 of the FOIA and the history of engagement between the complainant and the Council in respect of this and other requests for information, the Commissioner has decided to accept the complainant's application for a decision and to issue a DN on the procedural aspects of the handling of this request.
17. In proceeding to a DN in this case, the Commissioner acknowledges that section 50(1) of the FOIA states that any person can apply to the Commissioner for a decision on whether a request for information was dealt with in accordance with the requirements of Part I of the FOIA.

Reasons for decision

Section 1(1) of the FOIA

18. Section 1(1) 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."

Section 10(1) of the FOIA

20. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
21. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request and provide the requested information within 20 working days.
22. As the requested information has now been disclosed no further action is required.

Right of appeal

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

Website: 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

**Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**