

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: **2 March 2023**

Public Authority: **Westminster City Council**
Address: **64 Victoria Street**
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant requested photographs and notes relating to an autopsy. By the date of this notice Westminster City Council (the Council) had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Council must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 21 March 2022, the complainant wrote to the Council and requested information in the following terms:
- "All, photographs taken of [name]'s body by the attending pathologist in the autopsy undertaken on 6 September 2018.
 - All, and full notes, reports and recordings of the attending pathologist, [name], and anyone else in attendance, made during the autopsy process including communications with either coroners [name] or [name].
 - Transparent and full explanation, including timelines of actions taken, of why it took until 20 December 2018 for the Senior Coroner to draft a letter formally informing me of an inquest being opened and released to me on 21 December 2018 by email, despite my ongoing requests throughout for it to be released. (The pathologist report includes the Toxicology results dated 24 October 2018...).
 - Any other information in possession of Westminster Mortuary relevant to [name]'s killing, autopsy, storage and access to his body from time of receipt to current day."
6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 13 January 2023 to complain about the Council's failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. Section 1(1) of 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."

10. 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".
11. On 26 January 2023 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Council has failed to respond to the complainant.
13. 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 FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Michael Lea
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