

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 January 2024

Public Authority: Warwick District Council
Address: Riverside House
Milverton Hill
Leamington Spa
Warwickshire
CV32 5HZ

Decision (including any steps ordered)

1. The complainant requested information from Warwick District Council (the Council). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the questions at part 1, part 2 and part 3(1) are not valid requests for recorded information. The Council is not required to take any further action regarding these questions.
3. The Commissioner also finds that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the remaining parts of the request within the statutory time frame of 20 working days.
4. 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.¹

¹ The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format;
[Information Commissioner's Office - Advisory note to public authorities | ICO](#)

5. 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

6. On 7 November 2023, the complainant wrote to the Council and requested information in the following terms:

“Part (1) My request, I ask for it to be put in writing, why Caroline Rusel after being informed of this, lied to me in a reply to my request for a permit, by saying, I cannot issue you with a parking permit for Weston Close as there is no current parking scheme in place in Weston Close. And explain why she never sent the information regarding the introduction of the permit scheme at Weston Close...

Part (2) My request: I ask that both explain in writing why they would prefer to take Weston Close out of the orders rather than have them implemented...

Part (3) My request. (1) I ask (WDC) to put it in writing why (WDC) is not following its own procedures and orders as admitted to by Jan Matecki shown above and explain why he prefers to take Weston Close out of the order.?...

(2) I ask for all email exchanges and discussions held during September 2021 regarding, Taking Weston Close out of the orders, Keeping Weston Close in the orders and making changes to the orders between the following named persons--- (Caroline Russell Landlord Services Manager)---Lisa Barker Head of Housing--- Zoe Court, Parking and Ranger Service Manager of (WDC) along with Chris Elliott the Chief Executive of (WDC) [name redacted] Deputy Chief Executive (WDC)

(3) I request all the copies of the string of emails that Chris, Cllr Matecki, Lisa etc, have been having regarding the orders mentioned in an email showing this, sent 27 September 2021.”

Reasons for decision

Section 8 – request for information

7. Section 8 of FOIA outlines the requirements of a valid request for information as follows:

"(1) In this Act any reference to a "request for information" is a reference to such a request which—

(a) is in writing,

(b) states the name of the applicant and an address for correspondence, and

(c) describes the information requested."

8. The Freedom of Information Act gives a general public right of access to recorded information held by public authorities.

9. Section 84 of FOIA defines "information" as "...information recorded in any form". Therefore, in order to constitute a valid request for information under FOIA, not only must the complainant's request satisfy the criteria in section 8 of FOIA, but it must also be a request for recorded information.

10. Having reviewed the request made, the Commissioner is satisfied that the questions at part 1, part 2 and part 3(1) are not valid requests for recorded information under FOIA. The Council is therefore not obliged to respond to these parts of the request. FOIA does not require public authorities to create new information or provide justifications for a position taken. The Council may choose to respond to the specific questions as part of its business as usual correspondence, but that is completely outside the scope of this notice.

Section 10 – time limits for compliance

11. 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."

12. Section 10(1) of 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".

13. On 6 January 2024 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.
14. Despite this intervention the Council has failed to respond to the complainant.
15. 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

16. 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

17. 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.
18. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF