

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 August 2012

Public Authority: Wirral Borough Council
Address: Town Hall
Brighton Street
Wallasey
Wirral
Merseyside
CH44 8ED

Decision (including any steps ordered)

1. The complainant made various information requests to Wirral Borough Council ("the council"). The council failed to respond.
2. The Commissioner's decision is that the council has breached section 10(1) of the Freedom of Information Act 2000 ("the FOIA") for failing to respond to the requests within 20 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond to the requests for information in accordance with the obligations under the FOIA
4. The public authority 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

Request 1

5. On 2 December 2011, the complainant requested information in the following terms:

"Please disclose what process or policy is used to evaluate appropriate value for tax payers money for this excessive external legal expenditure.

Please also disclose what authorisation takes place for officers to engage with external legal representatives and to what level of authority authorisation rises to".

Request 2

6. On 22 December 2011, the complainant requested information in the following terms:

"Please find the information here:

[What Do They Know link]

Please disclose any policy which would include reference to the duties of an officer of the council in reporting misconduct or gross misconduct of a fellow officer once they are aware of such concerns, including who they would report the matter to etc.

Please disclose any policy which would describe when a concern is investigated and what procedure is undertaken in making the decision.

Please could you also disclose any procedure or policy for a member of the public to report misconduct or gross misconduct of a WBC Employee to WBC.

Please disclose the WBC disciplinary procedure and any specific policy which exists for DASS relating to disciplinary and descriptors of acts of misconduct or gross misconduct".

Request 3

7. On 31 December 2011, the complainant requested information in the following terms:

"Please see the following link:

[What Do They Know link]

In your response on the 30th December 2011 you state:

'I can confirm that the Council sought and received Legal Advice

This relates to the briefing note 1 dated 21.05.09 where [name], Head of Access and Assessment for DASS implemented policy change under the subject of Financial Authorisations – Revised Authorisation Process for Care Packages.

The effect of which was a possible illegal delay in provision for assessed need without an equality impact assessment or impact assessment to assess the risk faced by vulnerable adults by the policy.

Please disclose:

- 1. The officer(s) requesting legal advice for this issue*
- 2. The date legal advice was requested for this issue*
- 3. The legal representative(s) or organisation(s) giving advice*
- 4. The officer, if applicable, giving advice, if within the council's legal department*
- 5. The dates this advice was received and the date the final advice was received*
- 6. The officer(s) who received the final advice*
- 7. The form of the advice*
- 8. Any dates of further advice on the policy from legal representatives detailing the officers and legal representatives"*

Request 4

8. On 11 January 2012, the complainant requested information in the following terms:

"Please see the following request:

[What Do They Know link]

Please disclose the number of full time and part time officers who shared this bonus in 2005/6 and 2006/7.

Please present this information so that it is clear the number of part and full time staff sharing the bonus disclosed.

Please also state the largest bonus awarded to a single employee in 2005/6 and 2006/7.

Please disclose the salary bands of drivers and assistants in both 2005/6 and 2006/7".

Scope of the case

9. The complainant contacted the Commissioner to complain about the council's failure to respond to his requests for information.

Reasons for decision

10. Section 10 of the FOIA provides that when a request for information is received, a public authority must respond in accordance with the obligations under the FOIA within 20 working days. The council has failed to respond.

Other matters

11. The Commissioner is concerned about the council's lack of response to these requests, the severity of the delay and the council's failure to keep the Commissioner and the complainant updated on its progress. This may indicate resource issues at the council that need to be addressed.

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF