

Freedom of Information Act 2000 ('FOIA')

Decision notice

Date: 10 October 2012

Public Authority: Wirral Borough Council

Address: Wallasey Town Hall
Brighton Street
Wallasey
Wirral
Merseyside
CH44 8ED

Decision (including any steps ordered)

1. The complainant has requested correspondence between Wirral Borough Council ('the council') and a specific law firm. Despite the intervention of the Commissioner, the council has not provided a response to the request in accordance with the FOIA. The Commissioner therefore reminds the council of its obligations under the FOIA and requires that it either respond to the request in accordance with the legislation or issue a valid refusal notice under section 17(1).
2. 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

3. On 4 February 2012, the complainant wrote to the council via the WhatDoTheyKnow website and requested information in the following terms:

"Please forward copies of ALL correspondence you have, whether received or sent, regardless of the medium used, (letter; email; fax; memorandum, etc) and regardless of subject matter, with the following law firm:

DLA Piper UK LLP.”

4. Having received no response from the council, the complainant then requested an internal review on 6 March 2012.
6. The council acknowledged the request for an internal review on 9 March 2012 stating that the review request is currently with the legal department and the name of the reviewing officer will be provided when assigned.
7. On 2 May 2012 the complainant informed the council that he had appealed the request to the Commissioner as the council had failed to respond to the request and failed to carry out the promised internal review.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. The Commissioner considers whether the council have responded to the request in accordance with the FOIA.

Reasons for decision

10. Section 10(1) of the FOIA states that a public authority in receipt of a request for information has a duty to respond within 20 working days.
11. On 11 June 2012, the Commissioner requested that the council issue a response to the complainant within 10 working days. He explained that the council should either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA and provided links to publically available guidance on refusal notices.
12. The Commissioner contacted the council again on 9 July 2012 and informed it that the complaint has been deemed eligible for formal consideration under section 50 of the FOIA.
13. To date, the council has not provided a response to the complainant. It is clear to the Commissioner that, in this case, the council has failed to respond to the request in accordance with the legislation.

Other matters

14. The Commissioner is concerned about the council's lack of response to this request, 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

15. 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

16. 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.
17. 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