

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 9 September 2014

Public Authority: Wigan Metropolitan Borough Council
Address: Town Hall, Library Street
Wigan
Lancashire, WN1 1YN

Decision (including any steps ordered)

1. The complainant has requested information relating to a plot of land.
2. The Commissioner's decision is that, by its failure to provide a substantive response to a request for information, Wigan Borough Council has breached section 10(1) of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
4. Provide the complainant with a response to his request which complies with the requirements of section 1(1) of the Freedom of Information Act 2000, or issue a valid refusal notice.
5. 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

6. On 4 January 2014, the complainant wrote to Wigan Borough Council (WMBC) and requested information in the following terms:

Application No A/06/065847 (Land to the rear of 33-37 Almond Brooke Road)

I request copies of documents containing the following information be provided:

- *If an Ombudsman were involved, I require copies of letters.*
 - *If a Solicitor/Barrister were involved, I require copies of letters.*
7. WMBC acknowledged the request on 8 January 2014 but have failed to provide a response.

Scope of the case

8. The complainant contacted the Commissioner on 16 June 2014 to complain about the way his request for information had been handled.
9. The Commissioner considers the scope of this case to be to determine if WMBC has complied with its obligations under the FOIA.

Reasons for decision

Section 1 –General right of access

10. Section 1 of the FOIA provides 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) – Time for compliance

11. Section 10(1) of the FOIA requires that an information request should be responded to within 20 working days following the date of receipt. In this case the complainant submitted a complaint to the Commissioner alleging that no response had been provided.
12. The Commissioner subsequently contacted WMBC by email on 4 July 2014 and 13 August 2014 to advise that a complaint had been received

on that basis. However, to date there has been no confirmation from the WMBC that a response has been provided.

13. The Commissioner must therefore conclude that WMBC has breached section 10 of the FOIA by failing to respond to the complainant's request.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Pamela Clements
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SK9 5AF