

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 April 2015

Public Authority: City of York Council
Address: West Offices
Station Rise
York
YO1 6GA

Decision (including any steps ordered)

1. The complainant has requested information about internal guidance on council tax exemptions and to date has not received a response.
2. The Commissioner's decision is that City of York Council has breached section 10 (time for compliance) of the FOIA and he requires it to take the following step to ensure compliance with the legislation.
 - Comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
3. City of York 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 the Act and may be dealt with as a contempt of court.

Request and response

4. On 7 October 2014, the complainant wrote to City of York Council ('the Council') and requested information in the following terms:

"Will the Council please make available its internal guidance on this matter so all landlords can see why the a policy of discretion is needed to overrule a more sensible objective test of whether the two tenancies either side of a gap are qualifying exempt tenancies."

5. Correspondence followed in which the Council requested the applicant's personal name in order to progress their request, and the applicant correctly explained that an FOIA request submitted in the name of an organisation is a valid request.
6. The Council did not provide a response to the request and the complainant requested an internal review on 30 December.
7. The Commissioner wrote to the Council on 26 January and asked it to respond to the complainant's request. To date, City of York Council has not provided a response to the request or to the request for an internal review.

Scope of the case

8. The complainant contacted the Commissioner on 19 January to complain about the way their request for information had been handled.
9. The Commissioner focussed his investigation on whether City of York Council complied with section 10 of the FOIA.

Reasons for decision

10. Section 1(1) of the FOIA says that an individual who asks for information is entitled to be informed whether the information is held and, if it is, to have that information communicated to them.
11. Section 10 of the FOIA says that a public authority must respond to a request for information no later than the twentieth working day following the date of receipt.
12. The complainant submitted their request on 7 October 2014 and, more than five months later, has yet to receive a response. This is a clear breach of section 10.

Right of appeal

13. 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

14. 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.
15. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF