

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 22 April 2015

**Public Authority:** Newcastle Under Lyme Borough Council  
**Address:** Civic Offices  
Merrial Street  
Newcastle Under Lyme  
ST5 2AG

#### **Decision (including any steps ordered)**

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1. The complainant has requested information from Newcastle Under Lyme Borough Council (the council) relating to a specified business premises. The council has acknowledged the request, but has not provided a substantial response.
2. The Commissioner's decision is that the council has failed to comply with section 10 of the FOIA as the response was not provided within 20 working days.
3. the Commissioner requires the council to take the following steps:
  - Comply with the request or issue a valid refusal notice as set out in section 17 of 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 Information 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**

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5. On 23 January 2015 the complainant wrote to the council. The letter contained the following request for information:

*"You will see the offensive and disgusting shop sign that has apparently been put on the outside of the [specified business premises] when there are adjoining residential properties; it is not only offensive and disgusting but also totally out of keeping with a residential area and totally disproportionate in size and of course [named individuals] do not live that the [specified business] premises so do not have suffer the detrimental effect it has on residents and the amenity of the area not least residential property prices. The Council have allowed this to happen by failing to apparently take any action (via planning or other legislation) to stop it despite being made aware of what was very likely to happen if no or inadequate action was taken by the Council to take steps to control the situation. There has therefore been a total dereliction of the statutory duty imposed on the Council (via planning and other legislation) to stop this occurring. Please confirm via e mail within 24 hours of this e mail being sent what action (if any) you intend to take to have this sign immediately removed and if no action is to be taken then please promptly explain why. "*

6. The council acknowledged receipt of the letter on 12 March 2015.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 30 March 2015 to complain specifically about the council's delay in responding to his request. He requested that the Commissioner serve a decision notice in this case
8. The Commissioner considers the scope of this case to be to formally record the delay.

### **Reasons for decision**

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9. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
10. The Commissioner's decision is that the council did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days.

## Right of appeal

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11. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

12. 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.
13. 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**