

Freedom of Information Act 2000 ('FOIA')

Decision notice

Date: 10 October 2017

Public Authority: Plymouth City Council
Address: Ballard House
West Hoe Road
Plymouth
PL1 3BJ

Decision (including any steps ordered)

1. The complainant has requested details of the underspend of public money allocated to council tax support and the discretionary council tax support hardship fund for 2012 to 2016. The Commissioner's decision is that Plymouth City Council has breached section 10(1) of the FOIA by falling to respond to the request within the statutory time limit of 20 working days. She does not require any steps to be taken.

Request and response

2. On 27 August 2016 the complainant wrote to Plymouth City Council ('the council') and requested information in the following terms:

"Please provide details of the underspend of public money allocated to council tax support and discretionary council tax support hardship fund for 2012 through to 2016 thank you."

3. The council responded on 9 January 2017 and provided the following information:

"I would advise you that there is no set budget allocated to either council tax support or the discretionary hardship fund, consequently there is no underspend.

Council tax support (CTS) is assessed based on individual circumstances and will be awarded if the qualifying criteria is met. It is awarded in line with the council's scheme, which is reviewed annually.

There is no public money budgeted to this as it acts as a discount on a person's council tax charge.

Discretionary relief (known also as Exceptional Hardship) is awarded in line with the council's policy and is funded through the council tax collection fund. There is no set maximum amount of money that can be awarded in any period.

Council tax is an income for the council, and therefore any award of Exceptional Hardship reduces the amount of funds available to deliver other essential council services, such as adults and children's care."

Scope of the case

4. The complainant contacted the Commissioner on 18 February 2017 to complain about the way her request for information had been handled.
5. The Commissioner understood that the specific concern was about the amount of time the council had taken to respond to the request.
6. On 1 March 2017 the Commissioner wrote to the complainant as follows:

"The response provided on 09/01/17 is outside of the time limit prescribed in the Freedom of Information Act and as such will be recorded as a late response.

When considering complaints about delayed or failed responses to information requests our priority is to ensure requesters receive a response as quickly as possible where one has not been provided, and to monitor any persistent trends which might indicate that a public authority is routinely failing to respond within the statutory timeframe.

We monitor complaints where a serious contravention of section 10 is recorded and where persistent contraventions occur we will consider placing a public authority on our monitoring programme (<https://ico.org.uk/action-weve-taken/monitoring-compliance/>).

I have written to the public authority and I have reproduced below the text of my letter to them for your information.

The Commissioner does not need to serve a decision notice in an individual case in order to use that case as evidence for future enforcement action. Should you wish the Information Commissioner to issue a decision notice for your specific complaint we are able to do so."

7. The complainant responded to the Commissioner on the same day expressing dissatisfaction. The Commissioner understood this to be a request that a decision notice is served.
8. The Commissioner has therefore considered whether the council dealt with this request in accordance with its obligations under section 10(1) FOIA.

Reasons for decision

9. Section 10(1) states:

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

10. The complainant sent the request on 27 August 2016. The council responded on 9 January 2017 stating that the request was received on 8 September 2016. Regardless of which date the request was received, it is clear that a response was not provided within twenty working days. Therefore, the council did not respond to the request within the statutory time limit in breach of section 10(1).

Right of appeal

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

Website: 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

Deborah Clark
Senior Case Officer
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SK9 5AF