

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 November 2018

Public Authority: Westminster City Council
Address: City Hall
64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant has requested statistics relating to the number of information requests received, and responded to, by Westminster City Council in 2017/18.
2. The Commissioner's decision is that Westminster City Council (the council) failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The council 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 22 August 2018, the complainant wrote to the council and requested information in the following terms:

"FOIA/EIR statistics for 2017/18 showing the number of requests received and the numbers complied with within the statutory time limits.

Please indicate whether your statistics on the number of requests dealt with on time refer solely to requests answered in 20 working days, or whether they also includes those where a permitted extension was taken."

6. The council have not acknowledged the request and have failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 1 October 2018 to complain about the failure, of the council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the council on 16 October 2018 to highlight the outstanding response. She requested that the council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 31 October 2018 to highlight that the public authority had not responded to the request within 10 working days. Neither the Commissioner nor the complainant have received any further response from the council.
10. The Commissioner considers the fact that the response remains outstanding, despite her intervention, means that a decision notice is appropriate in this case.

Reasons for decision

11. Section 1(1) of the FOIA states 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.*

12. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) *is in writing,*
 - (b) *states the name of the applicant and an address for correspondence, and*
 - (c) *describes the information requested.*
- 13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
- 14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
- 15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the council has breached section 10 of the FOIA.

Right of appeal

16. 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

17. 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.
18. 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

Jonathan Slee
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SK9 5AF