

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 September 2019

Public Authority: Dorset Council

Address: County Hall
Colliton Park
Dorchester
Dorset
DT1 1XJ

Decision (including any steps ordered)

1. The complainant has requested information about West Dorset District Council's handling of FOI requests, and in particular its failure to respond to requests. The Council provided information falling within the scope of the request.
2. The Commissioner's decision is that, on the balance of probability, the Council does not hold any further information falling within the scope of the request.
3. The Commissioner does not require the public authority to take any steps to comply with the legislation.

Request and response

4. On 28 June 2018 the complainant wrote to Dorset District Council via the WDTK website and requested information in the following terms:

'This site has a number of Freedom of Information requests made to you to which you have failed to provide the information requested. Many of the requests put to you lawfully are marked as "delayed", or "long overdue". It is clear that West Dorset District Council is acting unlawfully in the failure to comply with Freedom of Information legislation.

Does West Dorset District Council have a deliberate policy of failing to comply with the FOI Act? Who is responsible for the failures and this policy? When was a decision taken to act unlawfully in relation to the failure to comply with the FOI Act?

In particular, it is apparent that questions relating to housing issues are not being dealt with. What is the reason for this? Is it a deliberate policy, and, if so, who is responsible for this?

Why have the following FOI requests been ignored?

<https://www.whatdotheyknow.com/request/t...>

<https://www.whatdotheyknow.com/request/r...>

<https://www.whatdotheyknow.com/request/p...>

<https://www.whatdotheyknow.com/request/s...>

In view of the council's unlawful conduct it is clear that this needs to be addressed via the ICO.'

5. The Council responded on 24 July 2018. It provided answers to the complainant's questions in the request, and said that it did not have a policy of deliberate non-compliance with the FOIA.
6. The complainant requested an internal review on the same day. The Council failed to make a substantive response to the review request.

Scope of the case

7. The complainant contacted the Commissioner on 2 November 2018 to complain about the way his request for information had been handled.

The Commissioner wrote to the complainant explaining that she did not consider the request to be for recorded information, but rather an explanation of its poor FOIA compliance. She also clarified that in relation to the four WDTK requests referred to in the complainant's request, only the person who had made the request could contact the Commissioner concerning how it had been handled. Consequently she could not consider whether the Council had complied with its obligations for these requests. However, the Commissioner invited the complainant to contact her if he considered that the nature of the complaint had been misunderstood.

8. The complainant responded to the Commissioner saying that he did think some of the information requested should be held in recorded format, in particular: who is responsible for failures to comply with the FOIA and a policy of non-compliance, both generally and in relation to housing requests.
9. The Commissioner therefore considers the scope of the case to be whether the Council has complied with the FOIA by disclosing all the information it holds falling within the scope of the request.

Reasons for decision

Section 1 – general right of access to information

10. Section 1 of FOIA/EIR states that:

'(1) 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.'

11. In the Council's first response to the complainant, it stated that:

'There is no such policy to deliberately fail to comply with the FOI Act. The FOI system is administered by Customer Services with support from officers in the relevant service areas to gather data and provide responses.'

Our Housing Service is under a high level of demand and every effort is made to respond to FOI requests within the prescribe timescale. Unfortunately, due to high demand on the service, this

isn't always met. However there is no policy or decision to intentionally fail to comply with the act.

Two of the below requests had already been sent a response at time you made your enquiry. The other two were, regrettably, outstanding and have since been escalated and a response to each has been sent. West Dorset District Council is working to improve its response times.

12. There were a number of exchanges between the Council and the complainant to determine why he was dissatisfied with the response. The complainant maintained the two of the requests he referred to in his request remained unanswered and for the other two, the responses were unsatisfactory. The Council committed to responding to the review request but it did not do so.
13. After the complainant explained to the Commissioner that he considered recorded information should be held on a deliberate policy of failure to comply with the FOIA, and the responsibility for this failure, the Commissioner advised him to approach the Council again for a review on this basis. He duly did so, but the Council again failed to respond.
14. The Commissioner subsequently accepted the complaint for investigation. In her letter to the Council, the Commissioner asked it to address the whether it had a policy of deliberate non-compliance, who was responsible for (non-) compliance with the FOIA, an update of the 2 requests that appeared outstanding and questions concerning the searches that were undertaken for recorded information falling within the scope of the request.
15. During the time between the Commissioner accepting the complaint for investigation and actual completion, West Dorset District Council (along with several other district Councils in the area) was abolished and a new unitary public authority established that assumed the extant functions of the district Councils. Consequently it was Dorset Council, and not West Dorset District Council (WDDC), that responded to the Commissioner's investigation letter.
16. Dorset Council explained to the Commissioner that the re-organisation, causing changes to both systems and officers resulted in problems and delays in dealing with FOIA requests, including responding to the complainant's review request. The Council provided dates of when the response was made to the four requests detailed in the complainant's request (and already provided to the complainant). The Council explained that as WDTK was a portal for making requests, it would not always record if information had been provided directly to the requestor rather than via the website. As the Council Officer responding to the

investigation letter had been involved with the request when working for WDDC, he was able to confirm that there was no deliberate intention or policy to mislead, or avoid FOIA responsibilities. He also confirmed that Customer Services, along with FOI Manager, had responsibility for FOIA compliance in the former Council.

17. The Council Officer explained that paper and electronic records were searched for information held falling within the scope of the request, and staff involved with the request at the time and still employed by the new Council were also asked to search their own records. The Council Officer was confident that no other information existed and was keen to apologise for any delays in responses.
18. On the balance of probability, the Commissioner is satisfied that the Council has complied with section 1 of the FOIA by providing all the information it holds falling with the scope of the request.

Right of appeal

19. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

20. 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.
21. 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
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Wycliffe House
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Wilmslow
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SK9 5AF