

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

### **Decision notice**

**Date:** 3 December 2019

**Public Authority:** Yarm Town Council  
**Address:** Town Hall  
High Street  
Yarm  
North Yorkshire TS15 9AH

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

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1. The complainant requested information from Yarm Town Council (“the Council”) about a CCTV system. The Council responded but did not inform the complainant whether it held the information he had requested, nor apparently consider any information for disclosure.
2. The Commissioner’s decision is that the Council’s response failed to comply with the requirements of section 10(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a response to the complainant which complies with the procedural requirements of the FOIA.
4. The 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

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5. On 8 April 2019, the complainant wrote to the Council via the website What Do They Know and requested information in the following terms:

*"Please provide the following regarding surveillance camera systems used on the brickyard allotment site, Worsall road, Yarm.*

- 1. Purpose of surveillance camera system policy and procedure.*
  - 2. What privacy policy is in place regarding individual members of the public.*
  - 3. Who is the published contact point for access to information and complaints.*
  - 4. Who is responsible and accountable for all surveillance camera system activities including images and information collected, held and used.*
  - 5. A copy of rules, policies and procedures for surveillance camera systems used on the brickyard allotment site.*
  - 6. A copy of storage policies and procedures for surveillance camera systems used on the brickyard allotment site.*
  - 7. A copy of Access to retained images and information, policies and procedures for surveillance camera systems used on the brickyard allotment site.*
  - 8. A copy of Security and Safeguards against unauthorised access and use, policies and procedures for surveillance camera systems used on the brickyard allotment site.*
  - 9. A copy of all reviews and audits since installation of surveillance camera systems on the brickyard allotment site."*
6. On 11 April 2019, the Council responded and stated: *"It has been confirmed to the Town Council that its CCTV Cameras do not fall within the remit of monitoring public space but are effectively a domestic system"*.
7. The complainant requested an internal review on 12 April 2019. The Council sent him the outcome of its internal review on 15 April 2019. It stated: *"I am satisfied that the response of the Town Council complies with its obligations under Freedom of Information legislation"*.

## Scope of the case

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8. The complainant contacted the Commissioner on 29 April 2019 to complain about the way his request for information had been handled.
9. During the course of the investigation, the Commissioner wrote to the Council. She suggested that the Council should reconsider the request. It was advised that specifically, it should consider each point of the request in order to determine whether it held any recorded information that could be provided to the complainant.
10. In its response to the Commissioner, the Council stated that it did not hold any "*data information*" on the CCTV system, although it was unable to confirm whether it had carried out any searches. It also provided, to the Commissioner, some general explanation as to why the CCTV system, which it stated was on private property, had been installed.
11. This decision notice covers whether the Council has complied with the procedural requirements of the FOIA in responding to the request.

## Reasons for decision

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### Section 10(1) of the FOIA

12. 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."
13. Section 10(1) of the FOIA states that 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*".
14. In this case, while the Council provided a partial response to the Commissioner as to its position, the Commissioner has no evidence that the Council confirmed to the complainant whether or not it holds information of the description specified in the request, nor that it provided to him any information falling within the scope of the request.
15. She considers that the Council has therefore failed to comply with its obligations under section 10(1) of the FOIA.

16. The Commissioner requires the Council to issue a fresh response to the complainant which complies with its obligations under section 1(1) of the FOIA.
17. In the event that the Council holds relevant information, but considers that it is exempt from disclosure, it should issue a refusal notice which complies with the requirements of section 17 of the FOIA.

### **Other matters**

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18. The Commissioner has noted that the Council, in handling the request, apparently lacked awareness of its obligations under the FOIA. She trusts that in future it will ensure compliance in responding to requests for information.
19. She is aware that the complainant may have submitted further requests via the website What Do They Know. While these have not been formally considered in this notice, the Council should check whether its responses to the complainant complied with the procedural requirements of the FOIA; in particular, sections 1, 10 and 17.
20. The Commissioner would also remind the Council that a general duty to provide advice and assistance to complainants may also arise under section 16 of the FOIA.

## Right of appeal

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21. 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](mailto:grc@justice.gov.uk)

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

22. 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.
23. 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 .....**

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**