

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 November 2019

Public Authority: City of York Council

Address: West Offices

Station Rise

York

YO1 6GA

Decision (including any steps ordered)

1. The complainant requested information from City of York Council ("the Council") relating to an investigation into the exonerated Deputy Leader.
2. The Commissioner's decision is that the Council has 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.
 - The Council must issue a substantive response to the request in accordance with its obligations under the FOIA.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 10 April 2019, the complainant wrote to the Council and requested information in the following terms:

*"In this recently published foi you admit that the officer initiated standards investigation into the exonerated Deputy Leader has now cost us taxpayers £98.3k so far. That does not count all the staff costs in CYC and NYC, not does it account for work HR/legal that has had to be outsourced as CYC staff continued their Officer led lengthy investigation into the entirely exonerated Deputy Leader and an exec member, still shockingly mired in the process, after two years.
<https://www.whatdotheyknow.com/request/o...>*

Considering this is such a large sum of money please provide every decision notice and all recorded information on authorities given to spend this massive amount. Also provide details of which officer signed off these invoices"

6. The Council wrote to the complainant on 10 April 2019 to acknowledge the request.
7. On 6 May 2019, the complainant wrote to the Council and requested an internal review as they had not received a response to their request.
8. On 4 October 2019, the complainant wrote to the Council to state that they would be contacting the ICO.
9. The complainant has provided evidence that she has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to her information request.

Scope of the case

10. The complainant contacted the Commissioner on 4 October 2019 to complain about the Council's failure to respond to her request.
11. The Commissioner contacted the Council on 18 October 2019 reminding it of its responsibilities and asking it to provide a response to the complainant within 10 working days.
12. The Commissioner also contacted the complainant on 18 October 2019 to explain that the Council had been given 10 working days from 18 October 2019 within which to provide a response to their request.
13. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

14. Section 10 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.

15. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.

16. 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.*"

17. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached section 10 of the FOIA.

Right of appeal

18. 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

19. 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.
20. 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**