

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 August 2020

Public Authority: Halton Borough Council

Address: Municipal Building

Kingsway

Widnes

WA8 7QF

Decision (including any steps ordered)

1. The complainant has made a number of requests for information regarding penalty charge notices for Mersey Tolls.
2. The Commissioner's decision is that Halton Borough Council failed to respond to some requests within twenty working days and therefore breached section 10(1) of the FOIA.
3. As the requests have either been answered or superseded by subsequent requests, the Commissioner does not require any steps.

Request and response

4. The complainant wrote to Halton Borough Council ('the council') requesting statistical information regarding penalty charge notices for Mersey Tolls. In summary:
 - [1] 4 February 2019 regarding '*PCN figures*'
 - [2] 7 March 2019 regarding '*Figures for Traffic and PCNs*'
 - [3] 18 April 2019 regarding '*Figures for Traffic and PCNs*'
 - [4] 15-May-19 regarding '*Penalty Income*'
5. The council provided a response to [1] on 10 February 2019. The complainant replied with issues and questions regarding the information provided. The council provided one further piece of information on 8 March 2019 but did not respond to the other issues raised.
6. The council did not provide a response to [2].
7. The council provided a response to [3] on 22 May 2019. It stated "*Further to your FOI request I have set out the information requested in the attached document. Please be aware that it has taken a considerable amount of time to locate and retrieve the information from the records and this has exceeded the 18 hours as specified within FOIA legislation. However as the full extent of the resources required to accommodate your request only became apparent during the process of retrieving and collating the information the Council is on this occasion in a position to provide a response to your enquiry*"
8. The complainant responded to [3] on 22 May 2019 with questions to clarify the date range covered by the information and to challenge the validity of some of the information. The council did not provide an answer.
9. The council initially sought clarification for request [4] and then provided a response on 30 September 2019.

Scope of the case

10. The complainant contacted the Commissioner on 20 August 2019 to complain about the way their requests for information had been handled.
11. Many of the requests raised are similar in content, but for different time periods. To clarify, the information required is mainly statistical in nature, by month end.
12. Although the council initially dealt with the requests, it has subsequently refused a similar request from the complainant on the basis of section 12. The Commissioner has investigated this refusal and issued the decision notice referenced FS50879998.
13. On the basis that the investigation into FS5087998 would establish a decision on the content of the similar requests, the complainant agreed that the scope of this case should be limited to investigating any procedural breaches made by the council in the handling of the requests.
14. The Commissioner therefore considers the scope of the case to be whether the council has breached section 10 of the FOIA.

Reasons for decision

Section 10(1) of the FOIA – Time for compliance with request

15. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "*no later than the twentieth working day following receipt*".
16. Request [1] was made on 4 February 2019 and responded to on 10 February 2019 which is within the statutory timescales.
17. Request [2] was made on 7 March 2019 and request [3] was made on 18 April 2019. It is the council's position that it was in the process of considering [2] when it received request [3]. It subsequently provided a response to [3] on 22 May 2019. It is the council's position that this response gave the latest figures and therefore covered both requests [2] and [3].
18. The Commissioner considers that the council was not clear that its response to [3] was also encompassing a response to request [2]. Furthermore, as it was not within the required statutory timescales, she

therefore finds that the council breached section 10 in relation to request [2].

19. The council responded to request [3] in 21 working days, which is one day later than statutory requirements. The council therefore breached section 10 in this regard.
20. Request [4] was made on 15 May 2019 and responded to on 30 September 2019. This is outside of the statutory period and therefore the council breached section 10 in regard to request [4].
21. The Commissioner observes that the requests and responses have overlapped in this case. That, coupled with the extensive nature of the statistical information required, and issues in interpreting the information provided by the council has contributed to the issues described here.
22. However, it is still the case that some responses have been provided late, and in the case of request [2] it is unclear that a response has been provided.
23. The Commissioner therefore finds that the council has breached section 10(1) of the FOIA by failing to respond to the requests cited above within 20 working days.
24. The complainant has confirmed that no further steps are required in regard to these requests.

Other matters

25. The Commissioner notes that the council has not responded to the complainant's questions regarding its responses to [1] and [3]. These should have been dealt with as requests for an internal review. Not providing an internal review is contrary to the FOIA section 45 Code of Practice.
26. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice established under section 45 FOIA sets out, in general terms, the procedure that should be followed. The code says that reviews should be conducted within reasonable timescales.
27. The Commissioner finds the lack of internal review to provide responses to the complainant's questions and issues concerning. She asks the

council to ensure that future requests for internal reviews are handled appropriately and in accordance with her guidance.

Right of appeal

28. 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

29. 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.
30. 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
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