

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 June 2021

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

Decision (including any steps ordered)

1. The complainant requested various information held by Westminster City Council (the Council) regarding a specified property. The Council had failed to provide a substantive response by the date of this notice.
2. The Commissioner's decision is that 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, in accordance with its obligations 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 7 January 2021, the complainant wrote to the Council and requested information in the following terms:

"This request relates to all information held by the council in relation to any/all of the following:

- Building Control (in relation to the address 56 St. George's Square, London SW1V 3QT);*
- Building Safety (in relation to the address 56 St. George's Square, London SW1V 3QT);*
- Defective Structures;*
- Highways (in particular, under-pavement vaults);*
- District Surveyors;*
- The council department(s) that use the email address districtsurveyors@westminster.gov.uk;*
- The department(s) that liaise with FM Conway's Structures Division; (in particular but not limited to the following email addresses: [email address redacted], [email address redacted], [email address redacted], [email address redacted], [email address redacted], and/or [email address redacted]; and/or*
- The matter between Westminster City Council and FM Conway's Structure's Division with reference VA 2008.*

Please provide copies, in particular, of all correspondence, reports, demands, requests and documents sent to, or received from,

- (a) the freeholder (56 ST GEORGE'S SQUARE MANAGEMENT LIMITED) or its officers or agents (all documents);*
- (b) Marler & Marler property agents (insofar as the same relates to 56 St George's Square);*
- (c) T Markham Limited property agents (insofar as the same relates to 56 St George's Square);*
- (d) Child & Child Solicitors (Allium Law Limited) (insofar as the same relates to 56 St George's Square);*
- (e) Tenants or leaseholders at 56 St. George's Square (insofar as the same relates to 56 St George's Square); and*
- (f) your own sub-contractors or agents (including but not limited to FM Conway and all of the email addresses listed above) (insofar as the same relates to 56 St George's Square),*

in each case since 1st January 2020. For any documents you are unable to provide for reasons of confidentiality or otherwise, please provide a brief description of the same and the reasons for which you

consider you are unable to provide them.

Please note that I own [address redacted] - there are no confidentiality restrictions in place in relation this flat, as a consequence. If you must redact other flat numbers, feel free to do so.

Please also be advised that I have in possession copies of emails between Westminster City Council and FM Conway's Structures Division which bear that reference number (VA 2008) - it is not acceptable to suggest that these documents do not exist. I would expect, at a minimum, for you to disclose copies of all of those I already have in my possession, or to list them and explain why you consider that you may not do so."

6. The Council acknowledged the request on 11 January 2021 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 23 April 2021 to complain about the failure, by the Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 20 May 2021 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 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

10. 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.*

11. 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.*"

12. 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.

Other matters

13. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF