

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 November 2021

Public Authority: Southend-on-Sea Borough Council

Address: Civic Centre
Victoria Avenue
Southend-On-Sea
Essex
SS2 6ER

Decision (including any steps ordered)

1. The complainant requested information concerning the percentage of enquiries actioned by the Highways Department. By the date of this notice Southend-on-Sea Borough Council ("SBC") had not issued a substantive response to this request.
 2. The Commissioner's decision is that SBC has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
 3. The Commissioner requires SBC to take the following step to ensure compliance with the legislation.
 - SBC must provide a substantive response to the request in accordance with its obligations under the FOIA.
 4. SBC 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.
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Request and response

5. On 24 August 2021, the complainant wrote to SBC and requested information in the following terms:

"This is a request for information and made under Freedom of Information legislation. Please forward this email to the appropriate person who can deal with Freedom of Information requests.

1. For the 2021 financial year to date, please tell me the percentage of enquiries to the Highways Department, received via the Customer Service Centre, that have been responded to within 28 days of receipt.

2. For the 2021 financial year to date, please tell me the percentage of enquiries to the Highways Department, received via the Customer Service Centre, that to date have not been responded to.

Also, please send me a copy of the complaint procedure regarding poor handling of enquires by Customer Service Centre staff."

6. SBC acknowledged the request on 24 August 2021. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 21 October 2021 to complain about SBC's failure to respond to their request.
8. The Commissioner has considered whether SBC has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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."

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "*not later than the twentieth working day following the date of receipt*".
11. On 30 October 2021 the Commissioner wrote to SBC, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention SBC has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that SBC did not deal with the request for information in accordance with the FOIA. The Commissioner finds that SBC has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF