

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 June 2021

Public Authority: Bedford Borough Council
Address: 2 Horne Lane
Bedford
MK40 1RA

Decision (including any steps ordered)

1. The complainant requested information from Bedford Borough Council ("the Council") relating to the items considered during Council meetings. By the date of this notice the Council had not provided a substantive response to the request.
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.
 - 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 4 February 2021, the complainant wrote to Council via the What Do They Know website and requested information in the following terms:

"Please can you supply me with the following information about items considered under Part B (Press and Public excluded) at meetings of the council:

- 1) Are the specific reasons as to why the information is exempt stated in the Agenda for the meeting?*
 - 2) Is the Part B of the meeting fully minuted and the full minute agreed in Part B of a future meeting?
If not, how is the Part B minuted?*
 - 3) Are all or some papers considered under Part B routinely reviewed at a later date to establish whether the reason for their exemption remains valid, or whether the passage of time has resulted in the public interest in their publication outweighing the reason for which they were originally exempted?*
 - 4) If only some items are routinely reviewed, what is the policy as to which items should be reviewed?*
 - 5) When it is established that the exempt paperwork or record relating to a Part B meeting is appropriate for total or partial publication, either as a result of routine review or because it has been supplied in reply to a Freedom of Information request, is that paperwork then published on the council's website alongside the other paperwork for the relevant meeting?*
 - 6) Has the council ever reviewed its policy on Part B papers in one of the council's public meetings?"*
6. The Council wrote to the complainant on 4 February 2021 to acknowledge the request.
7. On 6 March 2021, as the complainant had not received a response, he wrote to the Council to request an internal review.
8. The Council wrote to the complainant on 8 March 2021 to provide him with an update on the status of his request. By the date of this notice the Council had not provided the complainant with a substantive response to his request.

Scope of the case

9. The complainant contacted the Commissioner 11 April 2021 to complain about the Council's failure to respond to his request.
10. The Commissioner contacted the Council on 7 May 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 7 May 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.
12. The complainant has provided evidence that he has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to his information 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. 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.*"
16. 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

17. 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

18. 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.
19. 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

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