

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 June 2022

Public Authority: Isle of Wight Council

Address: County Hall
Newport
Isle of Wight
PO30 1UD

Decision (including any steps ordered)

1. The complainant requested information about some email correspondence exchanged during a specific time period between specified parties. By the date of this notice, the Isle of Wight Council ("the Council") had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of 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 the Council to take the following step to ensure compliance with the legislation.
 - the Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Council 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 17 March 2022, the complainant wrote to the Council and requested information in the following terms:

“Finally, and we appreciate that this is outside the scope of our original request, we’d be interested in seeing the January 2022 correspondence referred to by [REDACTED] in her email to us of 28th January 2022, in which she says she sought external “permissions” from [REDACTED] in advance of passing our FOI request to the Corporate Information Unit.”
6. The Council acknowledged the request on 24 March 2022. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 27 May 2022, to complain about the Council’s failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

9. Section 1(1) of 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 9 June 2022, the Commissioner wrote to the Council, 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, the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council 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 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

Michael Lea
Team Manager
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Water Lane
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SK9 5AF