

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 3 March 2022

**Public Authority:** London Borough of Merton  
**Address:** 8th Floor  
Merton Civic Centre  
London Road  
Morden  
SM4 5DX

#### **Decision (including any steps ordered)**

---

1. The complainant requested information from the London Borough of Merton (the Council) about the membership, work and meetings of a project team established to deal with the fly tip along Willow Lane. By the date of this notice 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 16 December 2021, the complainant wrote to the Council and requested information in the following terms:

“Further to the response from the Cabinet Member for Local Environment and Green Spaces to the public question at the Council meeting on 17 November 2021 please will you provide details of:

- the membership of the "project team" established to deal with the fly tip along Willow Lane
  - the dates of each meeting of the "well established" project team
  - the agenda, papers and minutes associated with the project team's work
  - who are the "representatives from all impacted stakeholders"
  - emails relating to the project team both to and from Cricket Green ward councillors.”
6. The Council acknowledged the request on 16 December 2021. To date, a substantive response has not been issued.

### **Scope of the case**

---

7. The complainant contacted the Commissioner on 10 February 2022 to complain about 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 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 16 February 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**