

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 April 2022

Public Authority: Bedford Borough Council
Address: Borough Hall
Cauldwell Street
Bedford
MK42 9AP

Decision (including any steps ordered)

1. The complainant requested information relating to councillors' use of private email accounts for official business. By the date of this notice Bedford Borough 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 22 December 2021, the complainant wrote to the Council and requested information in the following terms:

"Does the council's IT department regularly update councillors using private email address for council business about security issues?"

Thirteen councillors have private email (non-council) email addresses listed in the councillor directory on the council's website. Does the council's IT department actively monitor these email addresses for security issues, such as those shown on the haveibeenpwned.com website?

Does the council's IT department actively monitor bedford.gov.uk email accounts for security issues, such as those shown on the haveibeenpwned.com website? Have there been any data breaches involving councillor email accounts - private and council - in the last five years?

Do those councillors using a private account for council business have a procedure in place to allow the IT Department, or any other council department, to access the email accounts should the councillor be incapacitated in some way so that someone can pick up their work?

Reason for requesting the information. This may help us focus on the details being sought.: Email use appears to be contrary to council policies"

6. The Council acknowledged the request on 22 December 2021. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 March 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 29 March 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
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