

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

### **Decision notice**

**Date:** 27 November 2018

**Public Authority:** Copeland Borough Council  
**Address:** The Market Hall  
Market Place  
Whitehaven  
Cumbria  
CA28 7JG

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

---

1. The complainant requested information from Copeland Borough Council (the Council) regarding changes made to its Head of Governance role.
2. The Commissioner's decision is that the Council 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 the Council to take the following step to ensure compliance with the legislation.
  - The Council must issue a substantive response to the request in accordance with its obligations under the 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 the Act and may be dealt with as a contempt of court.

## Request and response

---

5. On 27 July 2018, the complainant wrote to the Council and requested information in the following terms:

*"In the delegation from the Council there is absolutely no reference to a Head of Commercial nor is there a suggestion of any specific commercial aspect to the role. I would appreciate clarification as to how and when the role changed from what was delegated to the Personnel Panel to the role of Head of Governance and Commercial (and Monitoring Officer) – the advertised role."*

6. The Council acknowledged receipt of the correspondence on the same day but did not deal with it as a request for information under the FOIA.

## Scope of the case

---

7. The complainant contacted the Commissioner on 21 September 2018 to complain about the Council's failure to respond to her information request.
8. On 26 October 2018 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Council has failed to respond to the complainant.

## Reasons for decision

---

10. 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."*

11. 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."*
12. 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 the 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 the FOIA.

## Right of appeal

---

13. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

14. 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.
15. 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 .....**

**Ben Tomes  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**