

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 May 2019

Public Authority: Bournemouth, Christchurch and Poole Council
("the Council")

Address: Town Hall
Bourne Avenue
Bournemouth
BH2 6DY

Decision (including any steps ordered)

1. The complainant requested information from Bournemouth, Christchurch and Poole Council ("the Council") about suitable and sufficient public liability insurance for a contract between Highways Authority and Kiely Brothers and whether the contract contained an indemnity clause.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and therefore breached Section 10 of the Freedom of Information Act ("the FOIA").
3. As a response has been issued, the Commissioner does not require the Council to take any further steps.

Request and response

4. On 17 January 2019, the complainant wrote to the Council and requested information in the following terms:

"When responding to the contents of this email would you kindly confirm if necessary by way of a further FOI whether the contract between HA (Highways Authority) and KB (Kiely Brothers) required KB to have in place suitable and sufficient public liability insurance and further whether the contract also contained an indemnity clause such that, in the event of the HA making a payment in respect of my

(or any other similar) claim, the amount of the claim would be fully recoverable either directly from KB and / or their insurers.”

5. The Council provided a response on 25 April 2019.

Scope of the case

6. The complainant contacted the Commissioner on 7 March 2019 to complain about the way his request for information had been handled and he specifically requested a decision notice recording the non-response by the Council.
7. On 12 April 2019 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.
8. On 25 April 2019 the Council responded to the request. This decision notice deals purely with the timeliness of the response to the request submitted to the Council on 17 January 2019.

Reasons for decision

9. 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.*

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. From the evidence provided to the Commissioner in this case, it is clear that in failing to issue a response to the request within 20 working days, the Council has breached section 10(1) of the FOIA.

Right of appeal

12. 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

13. 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.
14. 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