

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

### **Decision notice**

**Date:** 4 December 2014

**Public Authority:** Wirral Metropolitan Borough Council

**Address:** Wallasey Town Hall  
Brighton Street  
Wallasey  
Wirral, CH44 8ED

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

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1. The complainant has requested information relating to "The Annual Audit Letter" and the Council's "Annual Report on Parking Enforcement".
2. The Commissioner's decision is that Wirral Metropolitan Borough Council (the Council) has breached section 10(1) of the FOIA.
3. The Commissioner requires the Council to either provide the requested information or issue a refusal notice in accordance with section 17 of the FOIA.
4. The public authority must take these steps 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**

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5. On 18 August 2014, the complainant wrote to the council via the "What do they Know" website (WDTK) and requested information in the following terms:

*"I have two questions I would like answered under the Freedom of Information Act:-*

*I note that the comments within "The Annual Audit Letter for Wirral Council" dated 28 October 2013 by "Grant Thornton UK LLP", the Council's Auditors, raise concerns on Page 10 that: -*

*"We issued a report by exception relating to significant weaknesses in the Authority's arrangements for: -*

- promoting and demonstrating the principles and values of good governance;*
- managing risks and maintaining a sound system of internal control."*

*Please provide any and all document between the Leader of the Council, Councillor Phil Davies and Senior and Service Management about how these worrying comments have been rectified in the 10 months since "the Letter".*

*Section 2.4 of the Council's "Annual Report On Parking Enforcement" dated 12 February 2014 states that: -*

*"Statutory Guidance issued under the TMA requires that Councils should produce an annual report on their parking enforcement activities and that this report should contain financial, statistical and performance related data in respect of its parking operations."*

- a. Is the policy of the Wirral Metropolitan Borough Council to adhere to such "Statutory Guidance" a legal requirement, good practice, good manners or just common sense?*
- b. What other requirements of this particular "Statutory Guidance" does the Council follow and more importantly are there any areas of this "Statutory Guidance" that said Council does not follow and if so why?*
- c. If the Council fails to adhere to any of this "Statutory Guidance" is this a conscious decision by Members or a shortfall by Senior Officers and or Service Management.*
- d. Do any other Council service areas operate under similar "Statutory Guidance"? If so please provide details of the service area, the "Statutory Guidance" and audit details of how the Council monitors its obligations under said "Statutory Guidance".*

*If no audit procedures are currently in place please be so kind as to have the Chief Executive of The Council, Mr Graham Burgess, detail how he intends to rectify this."*

6. The Council failed to reply.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 17 October 2014 to complain about the way his request for information had been handled.
8. The Commissioner wrote to the Council advising that it needed to respond and allowed a further 10 working days for them to do so.
9. The complainant contacted the Commissioner again on 12 November 2014 advising that he had not received a response from the Council.
10. The Council have not contacted the Commissioner with any explanation or reason as to why it has not provided a response.
11. The Commissioner considers the scope of this case to be to determine if the Council has complied with section 10(1) of the FOIA.

## **Reasons for decision**

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### **Section 10(1) – Time for compliance**

12. Section 10(1) requires that an information request should be responded to within 20 working days following the date of receipt. In this case no response has been provided despite the Commissioner's intervention. The Council therefore breached section 10(1).

## Right of appeal

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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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**