

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 August 2017

Public Authority: South Holland District Council
Address: Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE

Decision (including any steps ordered)

1. The complainant has requested information about the sale of plots on Fulney Lane North, Spalding, Lincolnshire PE12 6EP.
2. The Commissioner's decision is that South Holland District Council ('the Council') has breached section 10(1) of the FOIA as it did not respond to the request within the statutory timescale for compliance.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide a response to the complainant's request of 19 October 2016.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 19 October 2016, the complainant wrote to the Council and requested information in the following terms:

"Could you please provide all correspondence and all documents for the sale of plots 1-9 Fulney Lane North PE12 6EP between South Holland District Council and [redacted name] February 2015 under the Freedom of Information."

6. On 31 October 2016, the Council responded seeking clarification about the information requested.
7. On 2 November 2016, the complainant wrote to the Council clarifying the request, and on 8 November 2016 the Council responded confirming that it would process the request.
8. On 1 December 2016, the Council wrote to the complainant apologising for the delay in providing a response and said that it requires additional time to *"investigate fully"* and will provide a response as soon as possible.
9. On 1 February 2017, the complainant wrote to the Council to chase a response to his request.
10. On 28 June 2017, after being contacted by the complainant, the Commissioner wrote to the Council and asked it to respond to the complainant's request within 10 working days of the receipt of her letter.
11. On 11 July 2017, the Council says it wrote to the Commissioner providing the response it proposed to send to the complainant and asking her to *"please confirm if we need to send this to Mr North or if this will be forwarded by the ICO now that you have contacted us"*. Although the Council has provided the Commissioner with a copy of this correspondence, there is no record of it being received by her office.
12. On 13 July 2017, the complainant contacted the Commissioner saying he has not received a response to his request from the Council.

Scope of the case

13. The complainant contacted the Commissioner to complain about the Council's failure to respond to the request within the statutory timescale.
14. The Commissioner considers the scope of her investigation to be the determination of whether the Council has complied with section 10 (1) of the FOIA.

Reasons for decision

Section 10(1) of the FOIA – Time for compliance with request

15. Section 10(1) of the FOIA states:

“Subject to subsection (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

16. In this case, the evidence provided to the Commissioner indicates that although the Council received the complainant’s clarification of his request on 8 November 2016, it has not, however, provided him with a response within the statutory 20 working day timeframe. The Commissioner has therefore found that the Council has breached section 10(1) of the FOIA.

Right of appeal

17. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.
19. 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
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SK9 5AF