

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 July 2018

Public Authority: Westminster City Council
Address: City Hall
64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant requested copies of Westminster City Council's Client Affairs policies
2. The Commissioner's decision is that Westminster City Council ("the Council") failed to respond to the request within 20 working days and has therefore breached Section 10 of the Freedom of Information Act ("the FOIA").
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a response which complies with Section 1 of the FOIA.
4. The Council 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 23 April 2018, the complainant wrote to a specific officer of the Council and requested information in the following terms:

"I am interested in...acquiring the rules, guidances and policy[ies] [by whatever name] regarding Client Affairs. Please...send the documents to me."

6. The officer responded to the complainant's subsequent chasing emails on 8 May 2018 to say that he had "*not had sight of an FOI request from you and ask that you send it again in response to this email.*" The complainant did so on 9 May 2018 but, at the date of issuing this notice, no response had been received.

Scope of the case

7. The complainant contacted the Commissioner on 6 June 2018 to complain about the failure, by Westminster City Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 12 June 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The Complainant contacted the Commissioner on 28 June 2018 to complain that a response had still not been received. Given that the response remains outstanding despite her intervention, she considers that a decision notice is appropriate in this case.

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 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

12. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
13. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
14. From the evidence presented 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 of the FOIA.

Other matters

15. Section 1(3) of the FOIA states that:

"Where a public authority—

- (a) reasonably requires further information in order to identify and locate the information requested, and*
- (b) has informed the applicant of that requirement,*

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information."

16. If the Council is unclear about any aspect of the request it should clarify, with the complainant, the information that he is seeking. It should do this promptly.

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

Ben Tomes
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Cheshire
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