

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

### **Decision notice**

**Date:** 7 September 2018

**Public Authority:** Thanet District Council  
**Address:** Hawley Square  
Margate  
Kent  
CT9 1NY

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

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1. The complainant requested information about representations that Thanet District Council ("the Council") had made to the Ministry of Housing, Communities & Local Government and its predecessor department.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
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

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5. On 20 January 2018, the complainant contacted the Council via the [whatdotheyknow.com](http://whatdotheyknow.com) website and requested information in the following terms:

*"On 16th November 2017, in a Written Reply to the House of Commons, the (then) Secretary of State for Communities and Local Government stated that he had written to (amongst others) Thanet District Council, starting the formal process of intervention that he had set out in the Housing White Paper.*

*"Judging by the efforts made to persuade Members to vote in favour of the draft Local Plan it is to be hoped that representations were also made to the DCLG/MHCLG by Officers or Members of Thanet District Council, arguing for consideration of the area's particular problems before imposing any sanctions.*

*"I therefore request:*

- 1. Copies of any correspondence between any Officer or Member of Thanet District Council to any representative of DCLG or MHCLG, making representations regarding the special issues facing the Council with regard to the Local Plan and as a consequence of the Secretary of State's letter*
  - 2. Copies of any letters from any representative of DCLG/MHCLG subsequent to the Secretary of State's initial letter.*
  - 3. Details of any other attempts made by Officers and/or Members to delay intervention by the Secretary of State."*
6. The Council acknowledged the request on 20 January 2018 but had failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 16 May 2018 to complain about the failure, by the Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 22 May 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. Given that the response to this request remains outstanding, despite her intervention, the Commissioner considers that a decision notice is appropriate in this case.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with Section 10 of the FOIA.

### **Reasons for decision**

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11. 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.*

12. 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.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
14. 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.*"
15. 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.

## Right of appeal

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16. 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)

17. 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.
18. 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 .....**

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