

Freedom of Information Act 2000 (FOIA) / Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 28 April 2023

Public Authority: Swindon Borough Council
Address: Civic Offices
Euclid Street
Swindon Village
SN1 2JH

Decision (including any steps ordered)

1. The complainant requested information relating to traffic management requirements of certain planning permits. By the date of this notice Swindon Borough Council (the Council) had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Council must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 22 February 2023, the complainant wrote to the Council and requested information in the following terms:

"Please could I request the following information pursuant to FOIA.

1. Copies of all complaints received relating to the traffic management arrangements for the contractors / developers of the Redlands village, and the Bewley Homes development on Ham Road opposite the New Calley Arms.

- By way of example this would include complaints of the developer or contractor's vehicles using routes other than those set out in the traffic management plan, failing to use the wheel wash as required, failing to sweep the road as required, or anything of a similar nature.
- Personal details of complainants can be redacted if required (s.40 FOIA).
- If the volume is such as to take the request beyond the limit in s.12 FOIA, the total number in aggregate will suffice.

2. Details of what steps the council has taken to secure compliance with, or to enforce, the traffic management requirements of the respective planning permits. Please include any internal emails, minutes or memoranda that deal with the subject (to the extent this is possible within the s.12 limit – a simple query to the relevant staff members to provide any relevant materials will be sufficient, there is no need to undertake a trawl through large volumes of emails), and any relevant correspondence passing between SBC and the relevant contractors.

3. If an insofar as the council has not taken formal enforcement action (instead taking informal compliance action, or no action at all), a concise explanation of the reasons for that decision."

6. The Council acknowledged the request on 29 March 2023. To date, a substantive response has not been issued.

Reasons for decision

7. Section 1(1) of 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."

8. Section 10(1) of 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".
9. On 3 April 2023 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
10. Despite this intervention the Council has failed to respond to the complainant.
11. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.
12. Some of the information may be environmental in scope and therefore the Council may respond under the EIR in the alternative.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF