

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 August 2023

**Public Authority:** Torbay Council

**Address:** Town Hall  
Castle Circus  
Torquay  
TQ1 3DR

#### Decision (including any steps ordered)

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1. The complainant requested information from Torbay Council on 28 February 2023 about noise abatement notice and noise nuisance.
2. The Commissioner's decision is that the Council breached section 10(1) of FOIA by failing to provide a valid response to the request within the statutory time frame of 20 working days. No steps are required.

#### Request and response

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3. On 28 February 2023, the complainant made the following request for information:

" Subject: Noise abatement notice Beyond Escapes Limited in 2021

1. Information and documentation related to a noise abatement notice served on Beyond Escapes Limited in 2021 and its subsequent withdrawal.
2. Statements provided by [name redacted] and [name redacted] in relation to noise nuisance experienced while living at [address redacted].
3. All internal communications not otherwise privileged from disclosure related to noise nuisance reported to TBC officers [name redacted] and/or [name redacted] and all communications with third parties including Beyond Escapes Limited.

4. The final report provided by Red Twin noise consultants.
  5. All Noise App recordings submitted from Barnstormers and related internal communications since 2018.”
4. The Council responded to the request for information on 13 July 2023.

### **Reasons for decision**

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5. 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.”
6. 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”.
7. 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.

## Right of appeal

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8. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

9. 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.
10. 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**