

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 July 2023

Public Authority: Somerset Council
Address: County Hall
Taunton
Somerset
TA1 4DY

Decision (including any steps ordered)

1. The complainant requested information about complaints made by Yeovil Town Council staff against councillors over the last five years from South Somerset District Council. By the date of this notice Somerset Council which took over South Somerset District Council had not issued a substantive response to this request.
2. The Commissioner's decision is that Somerset Council (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 9 August 2022, the complainant wrote to the Council and requested information in the following terms:
 1. Please provide complaints made by Yeovil Town Council staff against councillors over the last five years.
 2. Provide all complaints made by number
 3. Provide all complaints that were validated against councillors by number and staff role
 4. Provide all unfounded claims by number by staff role
 5. Provide all complaint by type
 6. Provide all corrective action taken against the guilty party by type
 7. Provide all disciplinary action taken against false accusations from staff
 8. Provide any payments made to the staff members after a complaint by the council or councillors
 9. Provide any compensation made to the staff of YTC after such an event
Provide all evidence of councillors leaving under such complaints made against them

6. The Council requested clarification from the complainant on 10 August 2022 in the following terms:

“I have spoken to the Council’s Monitoring Officer regarding your request and they have asked me to seek clarity as to your request.

For your information, South Somerset District Council would only hear complaints where they relate to Code of Conduct. If complaints are not in relation to Code of Conduct, they would be dealt with by Yeovil Town Council themselves and therefore the information that is requested would need to be sought directly from them.

Please could you clarify whether your request relates to Code of Conduct complaints or whether your request relates to other complaints?”

7. The complainant responded on 10 August 2022 and explained that they were only requesting information relating to “Code of Conduct” complaints.

Reasons for decision

8. 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."

9. 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".
10. On 15 June 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.
11. Despite this intervention the Council has failed to respond to the complainant.
12. 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 public authority] 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.

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

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