

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

### **Decision notice**

**Date:** 28 March 2024

**Public Authority:** Bridgend County Borough Council  
**Address:** Civic Offices  
Angel Street  
Bridgend  
CF31 4WB

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

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1. The complainant has requested information about the provision of litter bags and restrictions relating to civic amenity sites. Bridgend County Borough Council (the Council) disclosed the information requested. The complainant alleged that additional information was held. The Commissioner's decision is that, on the balance of probabilities the Council does not hold any further recorded information relevant to the request. However, the Commissioner finds that the Council breached section 10 of the FOIA in failing to respond to the request within the statutory timescale. The Commissioner does not require any steps to be taken.

#### **Request and response**

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2. On 9 August 2023 the complainant wrote to the Council and requested information in the following terms:

"Please accept this formal request for all correspondence, emails, text/intranet messages, minutes etc along with any other relevant information, in relation to the following:

In late 2021 a decision was taken to outsource the provision of red litter bags to Keep Wales Tidy and the BCBC would collect the litter in the bags and dispose of them at the Council's expense. At the same time

Town Community Councils in the BCBC area were stopped using the waste disposal sites for which BCBC was/is responsible for”.

3. The Council responded on 25 September 2023 and provided some information, and stated it was consulting with a third party in relation to in email chain which it anticipated it would be able to disclose on 29 September 2023. In respect of the second part of the request, the Council advised that as far as it was aware Town & Community Councils had “never been knowingly allowed to dispose of their own produced waste” at amenity sites and as such no decision was made in 2021 to stop this happening. The Council stated that any knowledge of such incidents occurring would be stopped if it became aware of it.
4. On 25 September 2023 the complainant requested an internal review of the handling of their request. They indicated that they were unhappy with the timescale in which the response was issued and reiterated their belief that a decision was taken in 2021 to stop town and community councils from disposing of waste at amenity sites.
5. On 9 October 2023 the Council responded about the delayed response to the initial request and acknowledged it had not been issued within 20 working days.
6. On 23 October 2023 the Council provided the outcome of its internal review into the substantive aspects of the handling of the request. It upheld its position that no additional information was held relevant to the request. The Council also provided some background information about litter picking procedures since 2021. It again confirmed that no information was held about a decision to stop town and community councils from using amenity sites as no such decision had ever been made.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 30 October 2023 to complain about the way their request for information had been handled.
8. The scope of the Commissioner’s investigation into this complaint is to determine whether the Council holds any further recorded information falling within the scope of the request.

### **Reasons for decision**

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#### **Section 1 – general right of access**

9. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.
10. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.
11. The Council confirmed that no formal decision on litter picking was made in 2021 to outsource the provision of red litter bags to Keep Wales Tidy (KWT). The Council explained that what did happen in 2021 was "the cessation of a temporary Covid related arrangement for voluntary litter picking".
12. The Council provided background information about litter picking. It explained that red bags for voluntary litter picking had for a number of years been arranged and collected through KWT. However, as a result of KWT suspending its activities during the Covid pandemic in 2020, as a temporary measure, the Council arranged for red litter bags to be given out and collected from other groups. When KWT resumed its normal activities in 2021, the Council reinstated the former arrangements whereby only litter bags presented in conjunction with KWT were collected. As such, the Council confirmed that this was not a new decision, but rather a continuation of the arrangements which were in place prior to the pandemic.
13. The Council advised the Commissioner that it does not hold any further recorded information regarding the first part of the request relating to litter picking. The information which the Council disclosed in relation to this part of the request comprises an exchange of emails with a councillor asking about a change of policy regarding litter bags. The Council's response outlines the background information as set out above. The response also confirms that no formal decision was made in 2021 about litter picking, but rather it was a reinstatement of pre-pandemic arrangements with KWT.
14. In respect of the second part of the request concerning town and community councils being prevented from using the Council's civic amenity sites, the Council confirmed that there has been no change in its position regarding this matter. The Council explained that town and community councils have never knowingly or formally been permitted to use civic amenity sites to dispose of their own produced waste. The

Council added that if it became aware that a town or community council was using a civic amenity site, it would be stopped as soon as senior management were made aware of the issue.

15. The Commissioner finds the representations provided by the Council, as set out above, sufficiently explains why it does not hold the requested information. He notes that the Council provided the complainant with a similar narrative regarding the matters referred to in the request in its initial response and its internal review response.
16. In the absence of any evidence from the complainant to suggest that the Council holds additional information relevant to the request, the Commissioner finds that, on the civil standard of the balance of probabilities, the Council does not hold any further recorded information relevant to the request.

### **Section 10 – time for compliance**

17. Under section 10(1) a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of a request.
18. In this case the request was submitted on 9 August 2023 and the Council did not respond until 25 September 2023. The Commissioner therefore finds that the Council breached section 10(1) of the FOIA in failing to respond within the statutory timescale.

## **Right of appeal**

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19. 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)

20. 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.
21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Joanne Edwards**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**