

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 July 2024

Public Authority: Leigh-on-Sea Town Council
Address: 71-73 Elm Road
Leigh-on-Sea
Essex
SS9 1SP

Decision (including any steps ordered)

1. The complainant requested information from Leigh-on-Sea Town Council ("the Council") relating to the employment of Council staff and the training of Councillors.
2. The Commissioner's decision is that the Council has breached section 10(1) (time for compliance) of FOIA by failing to provide the complainant with some information within the scope of the request within 20 working days.
3. He also finds that the Council has breached section 17(1) (refusal notice) of FOIA by failing to provide the complainant with an appropriate refusal notice within 20 working days.
4. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must provide the complainant with a fresh response to the request which complies with the requirements of FOIA.
5. The Council must take these steps within 30 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 Act and may be dealt with as a contempt of court.

Request and response

6. On 20 February 2024, the complainant wrote to the Council and requested information in the following terms:

"I wish to make a request for information, under the Freedom of Information Act 2000.

As a local resident, I am deeply concerned about some of the practices at Leigh on Sea Town Council, especially relating to the position of the Town Clerk. I am therefore requesting the following information:

1. the actual date of the suspension of the Town Clerk
2. an explanation as to why paragraph 10.6 of the Staff Handbook (p64) has been exceeded
3. a summary of the training which each Councillor has received in terms of managing staff, in particular relating to the application of its conduct and capability and disciplinary procedures?
4. confirmation of the dates on which all Councillors completed this training using the following format:
 - a. Councillor A – DDMMYY
 - b. Councillor B – DDMMYY
 - c. Councillor C – DDMMYY
 - d. Etc
5. If Councillors have not completed this training, please explain why
6. Confirmation that all Councillors have received and understand the Council's Code of Conduct
7. evidence of that understanding (eg training records) and of the consequences of not following the Code of Conduct
8. a summary of the skills and qualifications of the Council's Human Resources Advisor? If no qualified HR Advisor has been involved in this situation, please explain why

9. a summary of the skills and qualifications of its Employment Law Advisor? If no legal advice has been sought about this situation, please explain why."
7. The Council responded on 21 February 2024 and stated the following:
"Staffing matters are confidential and therefore exempt as they cannot be released to the public.

The HR provider for the Council is Worknest, please see the link below for their credentials

www.worknest.com

The request for details of Councillors training in managing staff will be sent to you in due course.

All Councillors sign up to the Code of Conduct when they take office."
8. On 20 March 2024 the complainant requested an internal review. By the date of this notice, the Council had not provided the complainant with the outcome of its internal review.

Reasons for decision

9. 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."
10. Section 10(1) of FOIA states that a public authority must comply with section 1(1) promptly and "not later than the twentieth working day following the date of receipt".
11. Section 17(1) of FOIA states that where a public authority considers information to be exempt, it must issue a refusal notice within 20 working days which states which exemption it is relying on to withhold information and if not otherwise apparent, the reasons why that exemption applies.

12. The Commissioner notes that in its response to the request the Council stated that it holds information relating to the training of Councillors which falls within the scope of the request and that it intends to disclose the information to the complainant. However, by the date of this notice, the Council had not disclosed the information to the complainant.
13. Furthermore, the Commissioner notes that the Council has stated that it is withholding information relating to staffing matters which falls within the scope of the request as the information is confidential and so exempt from disclosure. However, the Council has not stated which exemption under FOIA it is relying on to withhold the information.
14. Therefore, the Commissioner's decision is that the Council has breached section 10(1) of FOIA by failing to provide the complainant with information relating the training of Councillors that falls within the scope of the request within 20 working days. He also finds that the Council has breached section 17(1) of FOIA by failing to provide the complainant with an appropriate refusal notice within 20 working days.
15. The Commissioner requires the Council to provide the complainant with a fresh response to the request. In that response, the Council should state whether or not it holds the information requested in all parts of the request and if held, either disclose that information to the complainant or state which exemption it is relying on to withhold the information.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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.

Ben Tomes
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