

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 December 2014

Public Authority: Walsall Council
Address: The Civic Centre
Walsall
WS1 1TP

Decision (including any steps ordered)

1. The complainant has requested information on the cost to the Council of claims made against it in respect of equal pay.
2. The Commissioner's decision is that the Council has failed to respond to the request within the statutory time for compliance. This is a breach of section 10 of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The Council must either comply with section 1 by confirming whether it holds the information and, if so, communicate that information to the complainant, or issue a refusal notice in compliance with section 17 explaining its basis for refusing to provide the information.
4. The public authority must take these steps 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 the Act and may be dealt with as a contempt of court.

Request and response

5. On 1 January 2014, the complainant wrote to the Council and requested information in the following terms:

- 1 - How many Council staff so far have received Equal Payment claims?
 - 2 - How many Staff are still claiming Equal Payouts from Walsall Council?
 - 3 - How much so far in TOTAL has Walsall Council paid out in Equal Payment claims?
 - 4 - How far do some of these Claims go back what year?
 - 5 - What was the Highest paid out to One Staff at the Council in equal payment claim?
 - 6 - How many Staff have Claimed Equal payout claims in Reduces?
 - 7 - How much money had the Council set aside for Equal payment Claims?
 - 8 - How many Cases did Council Staff take to Court and won?
6. The Council eventually acknowledged receipt of the request. However to date the Council has not provided a response.

Scope of the case

7. The complainant contacted the Commissioner 4 November 2014 to complain that the Council had not responded to his request.
8. The Commissioner considers the issue to be decided is whether the Council has complied with its obligation to respond to a request within the statutory time limit set out in section 10(1) of FOIA.

Reasons for decision

9. Section 1 of FOIA requires that, upon receipt of a request for information, a public authority confirms whether it holds that information and, if it does, to communicate that information to the applicant unless the information is exempt or there are other grounds for refusing the request.
10. If there are grounds for refusing the request, the public authority must issue a refusal notice in accordance with section 17 of FOIA, explaining why it has refused the request. The section 17 refusal notice must also provide details of any internal review procedure that the public authority

operates, together with applicant's right to complain to the Commissioner.

11. Section 10(1) of FOIA requires that the public authority either complies with section 1, or issues a refusal notice in accordance with section 17, promptly and in any event not later than the twentieth working day following receipt of the request.
12. The complainant made his request on 1 January 2014. Having not received any acknowledgement of his request he sent an email to the Council on 17 January 2014. He sent another email chasing a response to that and other requests on 14 March 2014.
13. This prompted the Council to update the complainant on the progress on his requests on 19 March 2014. In respect of his request for information on the equal pay claims the Council advised him that it was still awaiting information from the relevant service area.
14. After sending another email chasing the Council for a response on 22 May 2014 he complained to the Commissioner on 10 June 2014. The Commissioner contacted the Council on 7 July 2014 at which time the Council confirmed that the request had not been responded to. The Commissioner wrote to the Council the same day asking it to respond within 10 working days. He also wrote to the complainant informing him of the action he had taken and asking the complainant to contact him again if he had not received a response within 10 working days.
15. On 4 November the complainant contacted the Commissioner again to say he had still not received a response. The Commissioner contacted the Council on 3 December 2014. The Council confirmed that it had still not provided a response.
16. The Commissioner finds that the Council has failed to handle the request in accordance with the provisions of FOIA. It should have either confirmed whether it held the information and, if so, communicated that information in accordance with section 1, or issued a refusal notice under section 17 explaining its grounds for refusing the request. It should have taken that action within 20 working days of receipt of the request, that is by 31 January 2014. The Council has still not responded after 10 months despite being advised to do so by the Commissioner in July.
17. This is a breach of section 10(1).
18. The Council must now either comply with its duties under section 1 or refuse the request and issue a refusal notice in accordance with the provisions of section 17.

Right of appeal

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: 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.

Signed

Pamela Clements
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