

Freedom of Information Act 2000

Decision notice

Date: 21 July 2014

Public Authority: Southend-on-Sea Borough Council
Address: Civic Centre
Victoria Avenue
Southend-on-Sea
Essex
SS2 6ER

Decision (including any steps ordered)

1. The complainant requested information relating to public highways from Southend-on-Sea Borough Council (the Council). The Commissioner's decision is that the Council has breached sections 1 and 10 of the Freedom of Information Act 2000 (the Act) as it has failed to confirm or deny whether information is held within 20 working days of receipt of the complainant's request.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Respond to the complainant's request of 21 February 2014 in accordance with its requirements under the Act.
3. 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

4. On 21 February 2014, the complainant wrote to the Council and requested information in the following terms:

"I wish to make a request under the FOIA for an electronic copy of the entries since 1 January 2010, for the entire Southend Borough, showing reported problems with the public highways. To include the following information:

Date of entry to the database, plus:

Information entered under the following fields of your 'Problems with Public Highways' reporting portal.

'Where in the highway is the defect'

'What street or road is the problem in'

"What is the exact location'

"What is the defect'

'Please give details of the defect'

'Anything else relevant to this issue'

I am requesting the information is provided in searchable format such as XML or a common spreadsheet format.

An anonymised sub-set of the data is requested under my FOI rights as amended by section 102 of the Protection of Freedoms Act 2012 covering the release and publication of datasets held by public authorities."

5. The Council acknowledged the request on 25 February 2014. To date, the Council has not issued a response which meets its obligations under the terms of the Act.

Scope of the case

6. The complainant contacted the Commissioner on 14 April 2014 to complain about the way his request for information had been handled.
7. The Commissioner considers the scope of the case to be whether the Council has met its obligations under sections 1 and 10 of the Act to provide a response to a request.

Reasons for decision

8. Section 1 of the Act states that an individual who asks for information is entitled to be informed whether the information is held, and – providing

no exemptions apply – if the information is held to have the information communicated to them.

9. Section 10 of the Act states that a public authority must respond to a request promptly or “not later than the twentieth working day following the date of receipt”.
10. The Council confirmed it had received the request on 25 February 2014. The twentieth working day from this date was 25 March 2014. As the Council has not yet confirmed or denied whether information is held it has breached sections 1 and 10 of the Act. The Commissioner requires the Council to issue a response to the complainant in accordance with its obligations under the Act.

Right of appeal

11. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

12. 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.
13. 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

Alexander Ganotis
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF