

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

### **Decision notice**

**Date:** 23 July 2015

**Public Authority:** East Devon District Council  
**Address:** Knowle  
Sidmouth  
Devon  
EX10 8HL

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

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1. The complainant requested a list of key decisions considered by East Devon District Council (the council). The complainant was not satisfied that the council's initial response provided him with the requested information. Following an internal review the complainant was provided with the information required, however he was not satisfied with the time the council took to provide the information or conduct an internal review.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA as it did not provide the required information within the 20 working day timeframe permitted by the FOIA.
3. As the council has now provided the requested information, the Commissioner does not require it to take any steps.

#### **Request and response**

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4. On 14 July 2014, the complainant wrote to the council and requested the following information:

"Can you please provide a list (with details of meetings and dates when they were discussed) of "Key Decisions" as defined by The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 considered by the council since 2011."

5. The council acknowledged receipt of the request on the 22 July 2014. Then the complainant wrote to the council on the 5 August 2014 advising that a response is due on the 12 August 2014.
6. On the same day the council responded, advising that it had provided a response to the request on the 23 July 2014. Its response being as follows:

*"Key decisions are part of the business of Cabinet and are listed on the agendas. These are available from June 2013 to current at:*

*[http://www.eastdevon.gov.uk/cabinet\\_agen...](http://www.eastdevon.gov.uk/cabinet_agen...)"*

7. On 5 August 2014, the complainant requested an internal review advising the council that he was not satisfied with its response as he did not consider that it had stated whether the information was held, nor provided the information requested.
8. The complainant followed up with the council on the 13 August 2014, stating that he still had not received the information requested and again, 6 months later, on the 4 March 2015 stating that he was still awaiting the result of the council's internal review.
9. The complainant contacted the Commissioner on the 13 March 2015 to complain that he had not received a response to his internal review request. Following contact from the Commissioner, the council provided its internal review response to the complainant on the 24 April 2015. It stated that the information it holds on key agendas is as per that listed in the cabinet agendas from 2011 up to the date of the request. It provided highlighted agenda extracts.
10. On the 3 May 2015, the complainant responded to the council thanking it for its detailed response. However he did not consider that sending the relevant agendas helps him to find the key decisions that he might be interested in. He considered that it would have been reasonable for the council to have extracted the relevant data and summarised it into a single table.
11. On 19 June 2015, the council provided the complainant with the requested information in the form of a list.

## **Scope of the case**

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12. The complainant has advised the Commissioner that he is satisfied that he has now received the information requested however he is not satisfied with the time it has taken the council respond to this request.
13. The Commissioner considers the scope of the case is to determine whether the council has breached section 10(1) of the FOIA due to the time it took the council to provide the information requested.

## **Reasons for decision**

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### **Section 10(1) of the FOIA**

14. Section 10(1) of FOIA states that:

*"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

15. The complainant requested the information on the 14 July 2014 and although the council initially responded on the 23 July 2014, it did not provide what the complainant had requested until 19 June 2015 that being a 'list' of key decisions. This final response was provided some 11 months after the request was made.
16. Therefore the Commissioner finds that the council has breached section 10(1) of the FOIA.

## **Other matters**

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### **Internal Review**

17. The complainant has also brought to the Commissioner's attention his dissatisfaction with the time the council took to undertake an internal review for this request and that it was only after he complained to the Commissioner that the council undertook one.
18. Although under the FOIA there is no obligation for a public authority to conduct internal reviews, so the Commissioner is unable to consider any

breach of the FOIA for this, it is considered good practice under Section 45 Code of Practice<sup>1</sup> to conduct one and it is considered by the Commissioner that a reasonable time to conduct one, when requested, is within 20 working days, or 40 in exceptional circumstances.

19. The Commissioner notes, in this case, that the complainant requested an internal review on 5 August 2014 and the council did not provide the review until 24 April 2015. This being more than 8 months until the review was carried out. The Commissioner sees that these sorts of delays can cause frustration to a complainant trying to acquire the information being sought.
20. This therefore serves as a reminder to the council of the recommendations for carrying out internal reviews to FOIA requests. The council has advised the Commissioner that a report is being prepared for consideration which will suggest that resources dedicated to the consideration of FOIA requests are increased. The Commissioner hopes that this has a positive impact on the council's responses to future requests.

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<sup>1</sup> <https://www.justice.gov.uk/information-access-rights/foi-guidance-for-practitioners/code-of-practice>

## Right of appeal

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21. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

22. 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.
23. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**