

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 April 2014

Public Authority: Thanet District Council
Address: Cecil Street
Margate
Kent
CT9 1XZ

Decision (including any steps ordered)

1. The complainant has requested specific information about street cleaning arrangements in his local area. Thanet District Council (TDC) disclosed some information, but failed to address two key points of the request. The Commissioner's decision is that TDC breached section 1 and section 10 of the FOIA by failing to confirm or deny whether it held the information in question within 20 working days.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the complainant under the FOIA in respect of the information described in paragraph 8 of this decision notice.
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 October 2013 the complainant made the following request for information to Thanet District Council (TDC):

"1. The number of full time staff (or equivalents) working in street cleaning (ie those staff working sweeping the streets on foot) in a) Ramsgate b) Margate and c) Broadstairs for each year over the last five years.

2. The routes that the sweeping staff take in Ramsgate, including the roads covered and (if known) the regularity that the roads are covered."

5. TDC responded on 4 November 2013. It provided the following response to the request:

"1. The total number of staff employed by the Council for Street Cleansing is 45 of which

Ramsgate have 10 dedicated staff

Margate have 8 dedicated staff

Broadstairs have 4 dedicated staff

2. Ramsgate has an early morning clean Monday - Friday in the main shopping and harbour areas. After which, There are a number of cleansing route which are cleansed on a regularity to meet the Code of Practice under section 89(7) of the Environmental Protection Act 1990."

6. The complainant requested an internal review, asking TDC to address his specific request to know the precise roads cleaned. TDC provided the internal review on 20 December 2013. It disclosed the names of the roads swept in Ramsgate's shopping and harbour areas during the early morning, and identified in general terms areas of the town where street sweepers are deployed later in the day.

Scope of the case

7. The complainant contacted the Commissioner on 1 January 2014 to complain about the way his request for information had been handled. He considers that TDC has not answered his request fully.

8. The complainant says that TDC omitted to:

- provide a year by year breakdown of street cleaning staff employed over the past five years; and
 - provide precise details of the roads covered in Ramsgate outside of the harbour and shopping areas.
9. He explained to the Commissioner that he has concerns about cleaning arrangements for the area and wants to establish whether certain roads are cleaned as a matter of routine or only cleaned when residents complain.
10. The Commissioner has considered TDC's compliance with section 1 and section 10 in dealing with this request.

Reasons for decision

Section 1 and section 10 - general right of access and time for compliance

11. The Commissioner has examined the information TDC sent to the complainant in response to his request. He can confirm that TDC's correspondence did not address the two points identified in paragraph 8, above. The Commissioner invited TDC to correct this by confirming with the complainant whether or not it held the information and whether he was entitled under the FOIA to receive it, but neither he nor the complainant received a response from TDC.
12. Section 1(1) provides 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"*
13. By failing to confirm or deny whether it holds the information identified in paragraph 8, TDC breached section 1(1)(a) of the FOIA.
14. Section 10(1) provides 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 of a request. By not complying with section 1(1) (in respect of the information identified in paragraph 8) within twenty working days of receipt of the request, TDC breached section 10(1).

Right of appeal

15. 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: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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

Jon Manners
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF