

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

### **Decision notice**

**Date:** 16 January 2020

**Public Authority:** Birmingham City Council  
**Address:** Foursquare (2)  
Council House,  
Victoria Square,  
Birmingham  
B1 1BB

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

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1. The complainant requested copies of internal communications relating to previous correspondence he had sent to the Council.
2. The Commissioner's decision is that Birmingham City Council ("the Council") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner does not require the Council to take any further steps to ensure compliance with the legislation.

## Request and response

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4. On 23 May 2019, the complainant wrote to the Council and requested information in the following terms:

*"Acting upon the specific advice of the Information Commissioners Office, I re-issue my request under the FREEDOM OF INFORMATION ACT, dated 30<sup>th</sup> January 2019*

*-The 'precise' Information requested under the Act is detailed as:*

*'The recorded information showing exactly how the council reacted (internal communications) to my correspondence as stated.'*

*This constitutes a fresh request*

*- I repeat: I am seeking recorded internal responses by the council to my letters*

*- Please note. My intention is precise and clear (as advised) the council has an absolute duty to comply in accordance with the act."*

5. The Council acknowledged the request on 10 June 2019.
6. The Council wrote to the complainant on 14 June 2019 to request clarification from the complainant.
7. The complainant clarified their request on 21 June 2019:

*"To clarify the dates required, I formally request all internal response to my (unanswered) letters, mainly to chief executive Dawn Baxendale –*

*From (hand delivered on date)*

*29<sup>th</sup> October 2018 to the present*

*I repeat I have received no response to ANY of these communications"*

8. The Council did not respond to this letter.
9. The complainant complained to the Council, chasing a response and attached a clarified copy of their original request (from 30 January 2019) on 30 July 2019. The Council did not respond.
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## Scope of the case

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10. The complainant contacted the Commissioner on 3 September 2019 to complain about the failure, by the Council, to respond to the request.
11. In line with her usual practice, the Commissioner contacted the Council on 18 October 2019 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The Council responded and complied with the request.
12. The complainant contacted the Commissioner on 13 November 2019 to request a decision notice considering the Council's compliance with the FOIA.
13. The scope of this notice and the following analysis is to consider whether Council has complied with section 10 of the FOIA.

## Reasons for decision

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14. Section 1(1) of the 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.*

15. Section 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

16. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

17. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
18. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached section 10 of the FOIA.

## Right of appeal

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

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

**Ben Tomes  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**