

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

### **Decision notice**

**Date:** 2 June 2021

**Public Authority:** Information Commissioner's Office

**Address:** Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Note: This decision notice concerns a complaint made against the Information Commissioner ("the Commissioner"). The Commissioner is both the regulator of the FOIA and a public authority subject to the FOIA. She is therefore under a duty as regulator to make a formal determination of a complaint made against her as a public authority. It should be noted, however, that the complainant has a right of appeal against the Commissioner's decision, details of which are given at the end of this notice. In this notice the term 'ICO' is used to denote the ICO dealing with the request and the term 'Commissioner' denotes the ICO dealing with the complaint.

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

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1. The complainant requested data controller registration information of Irby Upon Humber Parish Council ("the Council") from the ICO.
2. The Commissioner's decision is that the ICO failed to respond to the request within 20 working days and therefore breached Section 10 of the FOIA.
3. As a response has been issued, the Commissioner does not require the ICO to take any further steps.

## Request and response

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4. On 16 February 2021, the complainant wrote to the ICO and requested information in the following terms:

*" I would be grateful if the ICO could provide me with copies of all information pertaining to the data controller registration of Irby upon Humber Parish Council from 18 December 2018 to date."*

5. The ICO acknowledged the request for information on 22 February 2021.
6. On 17 March 2021, the complainant wrote to the ICO chasing a response to the request. He also asked the ICO to conduct an internal review of its handling of the request. On 17 April 2021, the complainant wrote to the ICO chasing the outcome of the review.
7. On 26 May 2021, the ICO issued a substantive response to the request.

## Scope of the case

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8. On 17 April 2021, the complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. The Commissioner therefore considers the scope of the case to be whether the ICO complied with its obligations in relation to the time for the compliance at section 10(1) of the FOIA.

## Reasons for decision

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10. 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.*

11. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt."
12. On 26 May 2021 the Commissioner contacted the ICO to remind it of its responsibilities and obtain an update on the status of its response. It confirmed that a substantive response was provided to the complainant

earlier that same day. It explained that the delay in this case occurred because it was waiting for a response from the council about a consultation in relation to the requested information.

13. From the evidence provided to the Commissioner in this case, it is clear that in failing to issue a response to the request within 20 working days, the ICO has breached Section 10(1) of the FOIA.

## Other Matters

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14. In his correspondence to the Commissioner, the complainant further said:

*"On 17 March 2021, I submitted a request for a review to the ICO. However, I did not receive a response."*

15. Under paragraph 5(1) of the section 45 Code of Practice, it states that *"it is best practice for each public authority to have a procedure in place for dealing with disputes about its handling of requests for information"*.
16. This generally means that a public authority will offer an internal review. The FOIA itself does not include this further step and consequently there is no set time-scale for such a review to be carried out.
17. Nevertheless the Commissioner's guidance states an internal review should be carried out within 20 working days, and in any event, no longer than 40 working days. The Commissioner notes that the ICO has not followed best practice and completed an internal review within 40 working days.

## Right of appeal

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

19. 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.
20. 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  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**