

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

### **Decision notice**

**Date:** 25 May 2021

**Public Authority:** Conwy County Borough Council

**Address:** PO Box 1  
Conwy  
LL30 9GN

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

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1. The complainant requested information from Conwy County Borough Council (the Council) regarding three housing developments recently approved by the Council. The Council failed to provide a substantive response within 20 working days and had failed to provide a response to points four and five of the complainants request by the date of this notice.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, in accordance with its obligations under the FOIA, to the outstanding points of the request.
4. The Council 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 2 December 2020, the complainant wrote to the Council and requested information in the following terms:

*"Background:*

*Conwy CBC Planning Committee has approved the following housing developments:*

*Parc Hendre (Anwyl Homes), Abergele*

*Bron Y Castell, (McBrydes), North Wales Business Park, Abergele*

*Dol Gele (Anwyl Homes) Llanfair Road, Abergele*

*The Parc Hendre development is complete.*

*The remaining developments are well underway.*

*In respect of each of these developments, the planning approvals stipulated the payment of money by the developers to CCBC. These payments are known as Section 106 payments.*

*I request the following information:*

*1. In regard to each of the three developments details of the payments which the planning committee has stipulated should be paid to the council by the developers.*

*The payments are for specified purposes.*

*2. A breakdown of the respective amounts and the purpose to which these amounts are to be used.*

*3. The amounts, to date, paid by the developers.*

*4. An audited CCBC account of payments received from the developers and the audit trail for and how these payments have been spent.*

*5. Following receipt of these payments, minutes/records of the decisions as to how payments were spent.*

*It is further requested this information is collated and presented in a manner which is easily understood by a lay person and members of the*

*public."*

6. The Council acknowledged the request on 3 December 2020.
7. After the Commissioner had written to the Council highlighting its outstanding response on 19 March 2021, the Council provided a partial response to the complainant's information request.
8. On 1 April 2021, the Council provided a response to points 1, 2 and 3 of the complainant's request but stated that:

*"in regards to answers to questions 4 & 5, this information will follow, we apologise for the slight delay and will be in touch with you again shortly."*

The Council explained in its response that this was because:

*"Answers to questions 4 & 5 require authorisation to be released and this information will follow."*

## **Scope of the case**

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9. The complainant contacted the Commissioner on 5 March 2021 to complain about the failure, by the Council, to respond to the request.
10. In line with her usual practice, the Commissioner contacted the Council on 19 March 2021 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days.
11. The Council provided a partial response to the request on 1 April 2021.
12. The complainant contacted the Commissioner again on 21 May 2021 to advise that the Council had still not provided a response to points 4 and 5 of their information request
13. The scope of this notice and the following analysis is to consider whether the 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 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.*"
16. 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.

### **Other matters**

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17. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.

## 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 .....**

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**