

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 February 2023

Public Authority: Desborough Town Council
Address: Desborough Library Building
High Street
Desborough
Northamptonshire
NN14 2QS

Decision (including any steps ordered)

1. The complainant requested information from Desborough Town Council ("the Council") relating to a proposed one way system. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Council must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 10 August 2022, the complainant wrote to the Council and requested information in the following terms:

"The minutes of the Desborough Town Council (DTC) meeting held on 16 June 2022 advise that DTC has authorised the sum of £85,012.18 to be transferred from the Desborough precept account to North Northamptonshire Council Highways Authority. This amount is to pay for the necessary works to complete a proposed one-way system in Gladstone Street and Nichols Street, Desborough. The minutes also advise that this funding is in accordance with Section 274A of the Highways Act 1980.

Section 274A of the Highways Act 1980 permits parish councils to contribute funding but only for "traffic calming works". I am concerned that this project does not constitute traffic calming and will create just the opposite. If the project goes ahead it is likely to:

1. Increase traffic speeds on those roads that are changed to one-way.
2. Increase journey lengths and times for many vehicles causing additional pollution.
3. Increase traffic numbers in High Street, Station Road and parts of Harborough Road.
4. Create more congestion and waiting times for traffic waiting to turn out of the Gold Street and Gladstone Street junctions, and in particular at the awkward junction in High Street by 'The George' public house.

My questions are:

1. Has DTC obtained qualified legal advice to confirm that this project constitutes "traffic calming works" in accordance with the Highways Act?
2. If so, which legally qualified person or organisation provided that confirmation?

Please note that I am being forced into making this FOI since I wrote by email to the chair of DTC on this subject in early July but have not received a reply."

6. Whilst the Council has not acknowledged this request, the complainant has provided evidence which shows that the request was sent to a valid Council email address. Therefore, the Commissioner has assumed that the request was received by the Council.
7. By the date of this notice, the Council has not provided the complainant with a substantive response to the request.

Scope of the case

8. The complainant contacted the Commissioner on 16 October 2022 to complain about the Council's failure to respond to their request.
9. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of FOIA.

Reasons for decision

10. Section 1(1) of 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 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 23 January 2023 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days. Despite this intervention, the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Janet Wilson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF