

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 January 2014

Public Authority: Westminster City Council
Address: 64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant requested a report about budgets from Westminster City Council (the 'Council'). By the date of this notice the Council had yet to provide a substantive response to this request. The Information Commissioner's decision is that the Council breached section 10 of the FOIA in that it failed to provide a valid response to the request within 20 working days of receipt.
2. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation:
 - issue a response under the FOIA.
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 12 September 2013, the complainant submitted a refined request to the Council, having had an earlier request refused on cost grounds, and requested information in the following terms:

*"Please can you provide me a **transactional report of all budget virements in excel for 2010/11, 2011/12 and 2012/13?**"*

5. In support of his request the complainant also submitted the following:

I understand that this will take 10 minutes.....you don't have to sort the columns out for me.

On receipt of the transactional reports I will select 2 dozen virements where further documentation should be determined, located and provided. As this will take 25 mins per virement and adjusting for any time taken to collate this, this will be well within the 'appropriate limit' of 18 hours as detailed by the Freedom of Information and Data Protection Act (Appropriate Limit and Fees) Regulations 2004.

Hopefully the transactional report of budget virements can be initiated and provides expediently so I can begin the selection process."

6. In the absence of any response the complainant wrote to the Council again on 30 October 2013 asking it to respond.

Scope of the case

7. The complainant contacted the Commissioner on 30 October 2013 to complain about the way his request for information had been handled. The Commissioner understands that the term 'virements' relates to the transfer of a surplus from one account to cover a deficit in another. The complainant specifically asked the Commissioner to consider the fact that no substantive response had been provided.
8. On 18 December 2013 the Commissioner contacted the complainant who confirmed he had yet to receive any response to his request.
9. No substantive response to the request had been provided by the date of this notice.

Reasons for decision

10. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information. 11. Section 10(1) of the FOIA 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. From the information provided to the Commissioner it is

evident that the Council did not respond to the complainant within the statutory timeframe in respect of this request.

Conclusion

11. The Commissioner's decision is that the Council did not deal with the request for information in accordance with the FOIA. It breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days. At paragraph 2 above the Council is now required to respond to the request of 12 September 2013 in accordance with the FOIA.

Other matters

12. As well as finding above that the Council is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Council should evidence from other cases suggest that there are systemic issues within the Council that are causing delays.

Right of appeal

13. 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

14. 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.
15. 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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