

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

### **Decision notice**

**Date:** 17 June 2014

**Public Authority:** Wigan Metropolitan Borough Council

**Address:** Town Hall  
Library Street  
Wigan  
Lancashire  
WN1 1YN

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

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1. The complainant has requested correspondence relating to his council tax records; to date he has not received a substantive response. The Information Commissioner's decision is that the public authority has failed to provide a response to the request within the statutory time frame of 20 working days. He requires it to comply with the request or issue a valid refusal notice as set out in section 17 of the FOIA.
2. 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 Information 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

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3. On 18 November 2013, the complainant wrote to the public authority and requested information concerning his properties:
  1. *'A copy of all the relevant records that you are trying to "get straight" as they stand at the moment*
  2. *Details of any enquiries relating to the records from any council department not being the revenues department, and any replies thereto, including any written notes, emails, or other communications*
  3. *The statutory powers on which you rely and where my statutory obligations are to be found'*
  
4. On 20 December 2013 the Award and Taxation department of the Wigan Metropolitan Borough Council (the Council) replied with a full response to the third question but stated that the other 2 questions (regarding the copy of the records and the contact from other departments) should be made as a FOIA request.
  
5. On 7 January 2014 the complainant made the FOIA request:

*'Wigan Council Revenues Department contacted me last year with an Information Request in respect of (Wigan address redacted).*

*Email communications have ensued since then.*

*I have asked Wigan Council for a copy of the records that they are trying to "get straight" to use their terminology.*

*I have also asked for details of any enquiries relating to the records from any council department not being the revenues department, and any replies thereto, including any written notes, emails, or other communications.*

*In response the revenues department have stated that I must make my request under the provisions of the Freedom of Information Act*

*Please accept this email as such a request.'*
  
6. On 10 January 2014, the Council acknowledged this request (from the Resources Directorate – Legal and Risk) and stated that they would respond by 4 February 2014.

7. The complainant did not receive a response to this request so he wrote again to the Council on 17 February 2014 and to the ICO on 13 March 2014.
8. On 24 March 2014 the Information Commissioner wrote to the public authority asking that it issue a response to the complainant within 10 working days. There has been further correspondence between the Council and the complainant but it has only concerned the charges on the property and has not answered the FOIA request as above.
9. To date the Council has not responded to the FOIA request.

### **Reasons for decision**

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10. Section 10(1) of the FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
11. From the information provided to the Information Commissioner in this case it is evident that the public authority did not respond to the complainant within the statutory time frame and so it is in breach of section 10(1) of the FOIA.

### **Other matters**

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12. All communications in writing to a public authority, including those transmitted by electronic means, may contain requests for information within the meaning of the FOIA. It is essential that public authorities have procedures in place to ensure that information requests are recognised and dealt with promptly.
13. In this instance, the Council appears to have failed to recognise and process the information request in accordance with the requirements of the FOIA. The Information Commissioner expects that, in future, the Council will ensure that its' staff are provided with adequate training in relation to the recognition of requests and that procedures are in place for providing appropriate responses without asking the complainant to send the request again.

## Right of appeal

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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: 0300 1234504

Fax: 0116 249 4253

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)

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** .....

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**