

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 July 2014

Public Authority: Keighley Town Council
Address: Town Hall
Bow Street
Keighley
BD21 3PA

Decision (including any steps ordered)

1. The complainant has requested the council to disclose information relating to the benefits in kind received by the Town Clerk between November 2013 and May 2014. Following the Commissioner's intervention the council responded to this request on 17 July 2014.
2. The Commissioner notes that the council failed to respond to this request within 20 working days of its receipt. The Commissioner has therefore recorded a breach of section 10 of the FOIA in this case.
3. However, the Commissioner requires no further action to be taken, as the response albeit late fulfilled the complainant's request.

Request and response

4. On 5 June 2014, the complainant wrote to the council and requested information in the following terms:

"I would like to request the following information from the council;

Documentation of the deductions for PAYE, Employees NIC deductions and Employers NIC contributions for the benefits in kind received by the Town Clerk from November '13 to May '14.

I would prefer this information in electronic format via email.
Alternatively a copy by post at the address below.

As I am sending this request outside working hours on Thursday evening I expect the day the request to be Friday 6th June 2014."

5. As the council failed to respond in 20 working days, the complainant contacted the Commissioner on 4 July 2014.
6. The Commissioner contacted the council on 16 July 2014 and requested that a response is issued in accordance with the FOIA as soon as possible.
7. The council responded on 17 July 2014. It stated that documentation relating to the deductions for PAYE and employees NIC deductions and employer's NIC contributions for benefits in kind received by the Town Clerk from November 2013 to May 2014 is exempt from disclosure under the FOIA. This is because such information is the personal data of the Town Clerk. The council also confirmed that the Town Clerk received no benefits in kind for the period in question.
8. The complainant responded on 17 July 2014. He stated that as the Town Clerk received no benefits in kind, the council's response fulfils his information request of 5 June 2014. However, he confirmed that he remained dissatisfied with the time taken by the council to respond to his request.
9. The complainant informed the Commissioner on 21 July 2014 that he wished the Commissioner to consider how his request was handled and to record any procedural breaches of the Act.

Scope of complaint

10. As the complainant confirmed the council's response of 17 July 2014 satisfied his request, the Commissioner has only reviewed how the request was handled and whether there have been any procedural breaches of the FOIA.

Reasons for decision

11. Section 10 of the FOIA stated that subject to subsections (2) and (3), a public authority must comply with section (1) promptly and in any event not later than the twentieth working day following the date of receipt.
12. Section (1) 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.
13. In this case it is clear that the complainant submitted his information request after the close of business on 5 June 2014. The request was therefore received by the council on 6 June 2014.
14. As the council did not respond until 17 July 2014, it failed to respond to the complainant's request within 20 working days of its receipt. The Commissioner has therefore found the Council in breach of section 10 of the FOIA in this case.

Other matters

15. The Commissioner notes from one of the responses issued by the council that it does not regard the 20 working day timeframe outlined in section 10 of the FOIA as obligatory. The council informed the complainant that it regarded this timeframe as a 'guide' and 'not set in stone'.
16. This is incorrect and the Commissioner would like to remind the council of its responsibilities under the FOIA. Any public authority in receipt of an information request is obliged to comply with section (1) of the FOIA promptly and in any event no later than the twentieth working day following the date of receipt. It is a statutory requirement not a 'guide'.
17. It is also noted in this case that the complainant's request was forwarded to three members of the council but despite this the request was missed and not dealt with appropriately. The council should remind all staff that if they receive an information request they should forward this on to the appropriate member of staff responsible for dealing such requests and the 20 working day timeframe commences from the date it is received by the council as a whole and not the date it is received by the member of staff responsible for addressing freedom of information requests.

Right of Appeal

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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

Website: 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

Rachael Cragg
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