

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 January 2015

Public Authority: Lancashire County Council
Address: County Hall
Preston
PR1 8XJ

Decision (including any steps ordered)

1. The complainant has requested information relating to an Experimental Traffic Regulation Order (ETRO). Lancashire County Council (the council) has failed to respond to the request within 20 working days.
2. The Commissioner's decision is that the council has failed to comply with section 1(1) and section 10(1) of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Issue a response compliant with the terms of the Freedom of Information Act (2000) in answer to the complainant's request of 29 October 2014.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 29 October 2014, the complainant wrote to the council and requested information in the following terms:

"At your suggestion I list below the points that I do respectfully request a formal response to.

A. Please provide me with full copy of all the reports / requests relating to the instigation of E.T.R.O. Rawstorne Road (and L.C.C. responses to any author) together with all supporting documents, specifically (but not exclusively) including any such requests / reports / replies submitted by or on behalf of the Councillors in connection with the E.T.R.O.

B. A full copy of the application to and subsequent approval by the fund that paid for the E.T.R.O. Rawstorne Road together with all supporting documents submitted, or required by L.C.C. of the applying Councillor(s).

C. A full copy of the rules and regulations of the fund that paid for the E.T.R.O. in force at the relevant time of the application and approval of funding of the E.T.R.O. Rawstorne Road."

6. On 29 October 2014, the council contacted the Commissioner to say that it was treating this as a new request from the complainant. It stated *"We would be considering the requests that [complainant] has set out in the email I attached this morning completely afresh."*
7. The complainant has received no further response from the council.

Scope of the case

8. The complainant contacted the Commissioner 25 November 2014 to complain about the way his request for information had been handled. He informed the Commissioner that he had not received a response to his request.

Reasons for decision

9. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "no later than the twentieth working day following the date of receipt".
11. As the complainant contacted the Commissioner on the nineteenth working day, he has endeavoured to contact the council to ascertain whether a response has indeed been sent to the complainant. Despite sending emails on 2, 9, and 17 December 2014 and also leaving voicemails on 17 December 2014 and 13 January 2015, the Commissioner has not received any communication from the council on the matter.
12. The Commissioner therefore finds that the council has breached section 1(1) and section 10(1) of the FOIA in not responding to the request within 20 working days.

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: 0870 739 5836

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

Andrew White
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Cheshire
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