

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 June 2015

Public Authority: Plymouth City Council
Address: Ballard House
West Hoe Road
Plymouth
PL1 3BJ

Decision (including any steps ordered)

1. The complainant submitted a request on 23 March 2015 for information about a named person. Plymouth City Council responded outside the 20 working day limit, as set out in section 10.
2. The Commissioner's decision is that Plymouth City Council has breached section 10 of the FOIA.
3. The Commissioner does not require Plymouth City Council to take any steps as a result of this decision.

Request and response

4. On 23 March 2015 the complainant wrote to Plymouth City Council (PCC) and requested information in the following terms:
 - "1. Is [redacted] employed by the City Council?
 2. Is [redacted] employed by Devon and Cornwall police?
 3. Why is [redacted] sited (sic) alongside the Chief Executive of the City Council within the Corporate Structure Plan of Plymouth City Council?
 4. Why does [redacted] have a direct telephone number within the City Councils phone list [redacted]?

5. Is this contact telephone number within the City Council located in the Council offices?

6. If so where?

7. If not where is it located?

8. Why does [redacted] have a direct telephone number at Plymouth City Council?

9. What is [redacted] Job title and role at the City Council?

10. At a Health and Wellbeing meeting which was webcast [redacted] during introductions announced his name and that he now spent 85% of his time in this building (the civic centre). Why does a senior Police Officer now spend 85% of his time in the City Council in one of their buildings?

11 Does [redacted] have an office in Plymouth City Council if so where?"

5. On 31 March 2015 the complainant contacted PCC asking for an acknowledgment of her request.
6. On 28 April 2015 the complainant contacted PCC again. She explained that it had not responded to her request and that it was in breach of the FOIA.
7. PCC responded on 30 April 2015. It explained that it had not received her request until 28 April 2015, due to a technical error.

Scope of the case

8. The complainant contacted the Commissioner on 1 May 2015 to complain about the way her request for information had been handled.
9. The Commissioner will consider the length of time taken by PCC to respond to the complainant's request.

Reasons for decision

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. The complainant informed PCC and the Commissioner that PCC should have responded to her request by 12 April 2015, that is, 20 days after receipt of her request. However, as set out above, section 10 of the FOIA provides that a public authority should respond to an applicant no later than the twentieth working day after the date a request is received. Given that the complainant sent her request on 23 March 2015, the next working day after receipt would have been 24 March 2015; therefore, the twentieth working day for PCC to respond should have been 20 April 2015.
12. However, section 10(6) of the FOIA provides that a "working day" is *"any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom."*
13. In this case, Good Friday, which is a bank holiday, was on 3 April 2015 and Easter Monday, which is a bank holiday under the Banking and Financial Dealings Act 1971, was on Monday 6 April 2015. Therefore, the deadline by which PCC should have responded to the complainant was 22 April 2015.
14. During the Commissioner's investigation, PCC explained that the complainant could only contact a specified person within the organisation. PCC confirmed that there had been some technical problems with that contact point. It also confirmed that it had responded to the complainant's request.
15. The Commissioner considers that, given that the complainant had not made an error when submitting her request and the PCC confirmed that it had not received her request until 28 April 2015 because of a technical error for which it had responsibility, it had received the request for the purposes of the FOIA.
16. Therefore, the Commissioner considers that PCC has breached section 10(1) by failing to respond to the request within 20 working days.

Right of appeal

17. 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

18. 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.
19. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF