

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 16 March 2017

**Public Authority:** Birmingham City Council

**Address:** Council House  
Victoria Square  
Birmingham  
B1 1BB

#### Decision (including any steps ordered)

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1. The complainant has made four separate requests for information on different dates. Birmingham City Council (the council) has not responded to any of the requests.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA in all four requests.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide a response to each of the four requests outlined in this decision notice in accordance with section 1(1) of the FOIA.
4. 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

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5. The complainant made 4 requests on separate dates.
6. Request 1 was made on 22 November 2017 and recorded by the council under reference FOI 15868:

*"1. Please provide job descriptions for all refuse jobs.*

*2. Please provide all documentation relating to the most recent job evaluation carried out for each refuse job.*

*3. Please provide a breakdown of employees on each spinal column point as at 1 April 2016.*

*4. Please confirm how many (i) team leaders (ii) leading hands and (iii) refuse loaders were employed on each of (a) 1 April 2010 (b) 1 April 2011 and (c) 1 April 2012."*

7. Request 2 was made on the 27 November 2016 and recorded by the council under reference FOI 15890:

*"1. What refuse job titles were assigned to Grade 2 between 1 April 2010 and 1 April 2012.*

*2. For the period 1 April 2010 to date, please provide copies of negotiated agreements between BCC and trade unions in respect of terms and conditions for refuse employees. Please provide minutes of meetings involving both parties leading up to such agreements.*

*3. For the last complete financial year, please provide the average annual gross earning (including overtime etc) for the following jobs:*

- a. Gr4 Team Leader Trade Waste (LGV driver)*
- b. Gr3 Leading Hand (Trade Waste/ non-driver)*
- c. Gr3 Single Ops Driver (LGV driver)*
- d. Gr4 Teams Leader (LGV Driver)*
- e. Gr3 Leading Hand (non-driver)*
- f. Gr2 Refuse Loader."*

8. Request 3 was made on the 2 December 2016 and recorded by the council under reference FOI 15926:

*"Please confirm how many employees Birmingham City Council had in the following jobs at 1 April 2010.*

*Gr 4 Team Leader Trade Waste (LGV driver)*

*Gr 3 Leading Hand (Trade Waste/non-driver)*

*Gr3 Single Ops Driver (LGV) Trade Waste*

*Gr 4 Teams Leader (LGV driver)*

*Gr 3 Leading Hand (non-driver)*

*Gr 2 Refuse Loader*

*Gr 3 WEEE Collection Driver (non-LGV driver)*

*Gr 3 Recycling container driver (LGV)*

*2. Please confirm the same for 1 April 2011*

*3. Please confirm the same for 1 April 2012*

*4. Please confirm the same for 1 April 2014*

*5. Please confirm the same for 1 April 2015*

*6. Please confirm the same for 1 April 2016."*

9. Request 4 was made on the 12 December 2016 and recorded by the council under reference FOI 15991:

*"Please answer for the following jobs*

*Gr 4 Team Leader Trade Waste (LGV driver)*

*Gr 3 Leading Hand (Trade Waste/non-driver)*

*Gr3 Single Ops Driver (LGV) Trade Waste*

*Gr 4 Teams Leader (LGV driver)*

*Gr 3 Leading Hand (non-driver)*

*Gr 2 Refuse Loader*

*Gr 3 WEEE Collection Driver (non-LGV driver)*

*Gr 3 Recycling container driver (LGV)*

*a. What are the average gross overtime earnings for each job title for the last complete financial year?*

*b. What is the current enhanced hourly rate overtime on (i) weekdays (ii) Saturdays (iii) Sundays and (iv) bank holidays?*

*2. What job titles have been applied for street cleaning jobs and at what grades from 1 January[sic] 2011 to date?*

3. *For the jobs in paragraph 2.*

a. *What were the average gross total earnings for each job title for the last complete financial year?*

b. *What were the average gross overtime earnings for each job title for the last complete financial year?*

c. *What is the current enhanced hourly rate for overtime on (i) weekdays (ii) Saturdays (iii) Sundays and (iv) bank holidays?*

4. *Please provide a list of depots from which refuse workers and/or street cleaners are based.*

5. *Please provide a list of rounds for each depot for each day.*

6. *Please provide copies of any documentation for the week commencing 21 November 2016 detailing times refuse vehicles left and re-entered the relevant for each working day."*

10. The council contacted the complainant on the 23 January 2017 apologising for the delay in a response.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 7 February 2017 as the council had still not provided a response to any of the four requests.

12. The Commissioner contacted the council with regards to when a response would be sent. The council responded advising it could not give the Commissioner a date it would be able to respond by.

13. The Commissioner considers the scope of the case is to determine whether the council has breached section 10(1) of the FOIA with regards the time it has to respond to requests for information.

### **Reasons for decision**

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14. Section 10(1) of the FOIA requires a public authority to comply with section 1 of the FOIA within 20 working days following the receipt of the request.

15. In this case, the complainant made four separate requests. The council has not responded to any of these four requests and all are very much

outside the required time for a response set out in section 10(1) of the FOIA.

16. The Commissioner finds that the council has breached section 10(1) of the FOIA for all four requests and requires the council to respond to all four of the requests outlined in this decision notice as set out in paragraphs 3 and 4, above.

### **Other matters**

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17. The Commissioner is concerned with the amount of time the council is taking to deal with these four requests and also its inability to informally provide the Commissioner with a date for response, leaving no option but for a decision notice to be issued.
18. The Commissioner suggests that the council considers its commitment to responding to future information requests and its compliance with the time frames for providing these responses, which are clearly set out in the FOIA.
19. Being able to make information requests and receiving an appropriate response is a fundamental right of the public and the Commissioner hopes that the council takes note of this.

## Right of appeal

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20. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.
22. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**