

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 November 2018

Public Authority: Brighton and Hove City Council

Address: Kings House
Grand Avenue
Hove
East Sussex
BN3 2LS

Decision (including any steps ordered)

1. The complainant has requested information from Brighton and Hove City Council ("the Council") detailing the total compensation paid for damage caused to property or person due to poor condition of roads for the year 2015.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
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

5. On 31 August 2018, the complainant wrote to the Council via WhatDoTheyKnow and requested information in the following terms:

"Dear Brighton and Hove City Council,

Please kindly provide the total compensation paid for damage caused to property or person due to poor condition of roads (potholes, etc) for the year 2015.

It is our preference for these figures to include any additional costs (such as legal fees). If this is not possible then please kindly provide the data anyway and state what is included.

It is not our preference for sidewalks/pavement data to be included, but you may do so if it cannot easily be excluded. Please let us know either way.

In terms of which year to put the compensation figures. Our request relates solely to the year where the damage occurred, not the year it was paid. Thus if the damage happened in 2015 but was paid in 2016 or beyond, we require these figures to be included in the year 2015. Similarly if compensation was paid in 2015 relating to damage which did not occur in 2015 we would like those figures excluding."

6. The Council acknowledged the request on 31 August 2018 but it is yet to provide a substantive response, despite the complainant contacting the Council further on 5 and 12 October 2018, requesting a response.

Scope of the case

7. The complainant contacted the Commissioner on 12 October 2018 to complain about the way her request for information had been handled. In line with her usual practice, the Commissioner contacted the Council on 26 October 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
8. Given that the response to this request remains outstanding, despite her intervention, the Commissioner considers that a decision notice is appropriate in this case.
9. The following analysis is to consider whether the Council has complied with Section 10(1) (time for compliance) of the FOIA.

Reasons for decision

Section 10 - time for compliance

10. Section 1(1) of the FOIA states:

"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."

11. Section 10(1) of the FOIA states that:

"a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt".

12. The Commissioner's decision is that the Council has breached section 1(1) and section 10(1) of the FOIA as it had failed to comply with the request within the statutory time of 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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