

## **FS50849051 Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 8 July 2019

**Public Authority:** Sandwell Council  
**Address:** Oldbury  
West Midlands  
B69 3DE

#### **Decision (including any steps ordered)**

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1. The complainant has requested information about the funding for a swimming pool in Smethwick.
1. The Commissioner's decision is that Sandwell Council has breached section 10 (1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
2. The Commissioner requires Sandwell Council to take the following steps to ensure compliance with the legislation.
  - Sandwell Council must provide a substantive response to the request in accordance with its obligations under the FOIA.
3. Sandwell Council must take this step 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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4. On 10 April 2019, the complainant wrote to Sandwell Council and requested information in the following terms:

*"I understand that Sandwell Council have approved plans to build a Commonwealth Swimming Pool in Smethwick on the site known as Londonderry Playing Fields. Please could you supply me with the present costs of establishing the new Commonwealth Pool and who will be funding this project including a breakdown of what funds each provider will allocate. If Sandwell Council will be funding part*

*of the project please state how and where the money will be found from. I should also be grateful if you would forward to me a detailed business plan of future perceived running costs of the facility that include all elements of outgoing costs eg staffing, Utility costs, Council Tax, repair/refurbishment allocations and details of income that is expected to be generated from use particularly after the games has finished."*

5. Sandwell Council acknowledged the request on 10 April 2019. To date, a substantive response has not been issued.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 7 June 2019 to complain about Sandwell Council's failure to respond to her request.
7. The Commissioner has considered whether Sandwell Council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

### **Reasons for decision**

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8. Section 1(1) of the FOIA 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."*

9. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
10. On 18 June 2019 the Commissioner wrote to Sandwell Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. Despite this intervention Sandwell Council has failed to respond to the complainant.
12. From the evidence provided to the Commissioner in this case, it is clear that Sandwell Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that Sandwell

Reference: FS50849051



Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

## Right of appeal

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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@justice.gov.uk](mailto:grc@justice.gov.uk)

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

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**