

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 18 October 2019

Public Authority: West Midlands Combined Authority
Address: 16 Summer Lane
Birmingham
West Midlands
B19 3SD

Decision (including any steps ordered)

1. The complainant requested information concerning a proposed "growth area" for Balsall Common.
2. The Commissioner's decision is that West Midlands Combined Authority ("the Public Authority") 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 or EIR as appropriate, 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 14 May 2019, the complainant wrote to the Public Authority and requested information in the following terms:

"Dear [redacted]

You were good enough to help me with an FOI request concerning funding for a bypass/new housing access road in Balsall Common. I attach the reply that you sent to me. [redacted] I forwarded that on to a .local group who are interested in this matter. (Catchem Corner Residents Association). Your reply stated

A full business case for the outstanding £85 million was been submitted to Government in March 2019. However, the Balsall Common "growth area" element of the original proposal has been withdrawn and is not included in this full business case submission

This indicated that there had been a growth area proposal for Balsall Common but it was withdrawn. Off their own bat the residents group then asked SMBC for the application that they made for inclusion in the grant request that is referred to. In the second attachment SMBC are saying no such application for money was made despite your indicating that it was in the original proposal. Please can you

- 1. Send me a copy of the original proposal referred to in your letter*
- 2. Any documentation that supported its original inclusion and then that which supported its dropping from the proposal."*

6. The Public Authority acknowledged the request on 16 May 2019 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 24 August 2019 to complain about the failure, by the Public Authority, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Public Authority on 16 September 2019 to highlight the outstanding response. She requested that the Public Authority respond to the request within 10 working days. Her correspondence received an automated

acknowledgement email from the Public Authority, but was not substantively responded to.

9. The complainant contacted the Commissioner on 2 October 2019 stating that they were still not in receipt of a response to their request. The Commissioner therefore considers that a decision notice is appropriate in this case.
10. The scope of this notice and the following analysis is to consider whether the Public Authority has complied with section 10 of the FOIA.

Reasons for decision

11. 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.*

12. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Public Authority has breached section 10 of the FOIA.

Right of appeal

16. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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

Terna Waya
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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