

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

**Date:** 16 June 2020

**Public Authority:** Wokingham Borough Council  
**Address:** Shute End  
Wokingham  
Berkshire  
RG40 1WH

**Decision (including any steps ordered)**

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1. The complainant requested from Wokingham Borough Council (the Council) information in relation to a report about road safety improvements on a specific road, commissioned by the Council.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and failed to accurately identify whether it held information within the scope of the request. In so doing it breached sections 1 and 10 of the FOIA.
3. As the Council has now provided the information sought by the complainant, the Commissioner does not require the Council to take any further steps.

**Request and response**

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4. On 30 July 2019, the complainant wrote to the Council and requested information in the following terms:

*"Please provide a copy of any report you have commissioned into improving road safety in Church road."*

5. On 21 August 2019 the Council wrote to the complainant seeking clarification on the scope of the request, stating that:

*"We have been advised that there is more than one 'Church Road' within the Wokingham Borough and therefore we require clarification as to which road this is requesting information for. Please can you let us know and we can revisit the request and we will advise of the new due date once we receive clarification."*

6. On 30 August 2019, the complainant provided the requested clarification. The complainant stated:

*"For the avoidance of any further doubt or delay, I would like copies of all reports the council have commissioned into improving road safety in any road called 'Church Road' within the Borough of Wokingham, essentially as per my request of 30 July."*

And

*"There is a Church \*Lane\* in Finchampstead but I'm only able to locate one Church Road in Wokingham. The B3350, where a cyclist was killed at the junction with the A329 Wokingham Road commonly referred to as Three Tuns located at grid reference (0°55'39.9 W, 51°26'45.4 N)."*

7. In the absence of a substantive response to his information request, on 23 October 2019 the complainant wrote to the Council reminding it that he had not been provided with the information sought.
8. Upon the Commissioner's involvement, on 20 November 2019, the Council responded to the complainant stating that its *"Traffic Management, Parking & Road Safety Team Manager has advised that the Council has not commissioned any specific 'reports for improving road safety' on any Church Road in the Borough and therefore we have no information to supply based on this question."*
9. On 24 November 2019, the complainant requested the Council to conduct an internal review on the Council's handling of his information request. He explained that it had been published in the local press that the Council was carrying out surveys over the possibility of installing a crossing on a "Church Road" within Wokingham Borough.
10. Following the Commissioner's involvement, the Council conducted the requested internal review and provided the complainant with its outcome on 17 March 2020. The outcome of the internal review explained that *"an investigation into traffic staging and potential for pedestrian crossing facilities was carried out at that junction."* The Council attached to its internal review outcome a copy of a document

entitled "THREE TUNS CROSSROAD – Pedestrian Crossing Feasibility Study".

## **Scope of the case**

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11. The complainant initially contacted the Commissioner on 24 October 2019 to complain about the lack of a substantive response from the Council following the clarification provided.
12. On 6 November 2019 the Commissioner wrote to the Council reminding it to comply with its statutory obligation to provide the complainant with a substantive response.
13. Subsequently, the complainant contacted the Commissioner to complain about the lack of response to his request for an internal review. As explained above in paragraph 10 the Council conducted the internal review only upon the Commissioner's involvement.
14. Although the complainant has received the information requested, he asked the Commissioner to issue a formal decision notice in relation to the Council's compliance with the procedural requirements of the FOIA.
15. Therefore, the following analysis covers whether the Council complied with the requirements of sections 1 and 10 of the FOIA

## **Reasons for decision**

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### **Sections 1 and 10**

16. Section 1(1)(a) requires public authorities to inform requestors in writing whether they hold information of the description specified in the request.
17. Section 10(1) of the Act requires that public authorities must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
18. The complainant made his clarified information request on 30 August 2019. The Council failed to respond until 20 November 2019 and in so doing breached section 10(1) of the FOIA.
19. The 20 November 2019 response stated that no information within the scope of the request was held by the Council. However, at internal

review stage in transpired that the Council did hold information within the scope of the request, which was disclosed to the complainant.

20. In failing to confirm that information was held within 20 working days of receipt of the clarified request, the Commissioner concludes that the Council did not comply with the requirements of sections 1(1)(a) and 10(1) of the FOIA.
21. As the information that the Council belatedly confirmed it held was disclosed to the complainant, no remedial steps are required in relation to these breaches.

### **Other matters**

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22. The Council's handling of the information request was poor. As recorded above, it repeatedly failed to respond to the complainant until the Commissioner intervened. When it eventually responded to the complainant, it initially stated that no information within the scope of the request was held, which it transpired at the internal review stage was inaccurate. Whilst it disclosed information at the internal review stage which in the Commissioner's view was clearly within the scope of the complainant's request, it included wording in the internal review response which suggested that it maintained that this information was not within the scope of the request.
23. A record of the various deficiencies in the Council's handling of this request has been made. The Council must ensure that it has procedures in place to enable it to comply with the FOIA, in particular by responding to requests within the statutory time limit and on the basis of an accurate assessment of whether the requested information is held.

## Right of appeal

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24. 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)

25. 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.
26. 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**