

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 June 2021

Public Authority: Brighton and Hove City Council

Address: Hove Town Hall
Norton Road
Hove
BN3 3BQ

Decision (including any steps ordered)

1. The complainant requested information from Brighton and Hove City Council ("the Council") relating to the rationale and cost of erecting on a barrier at a specific location. By the date of this notice the Council had not provided a substantive response to the request.
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 Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the FOIA.
4. The Council 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 3 November 2020, the complainant wrote to the Council and requested information in the following terms:

"The purpose of this request is to understand the rationale and costs involved in the decision to build and subsequently removed a barrier in the road at the junction of Queen's Park Road and Carlyle Street.

A barrier was erected earlier this year, I would like to request information pertaining to why this was undertaken and the costs involved in planning and construction.

This barrier was then removed shortly afterwards, I would like to request information pertaining to why this decision was made and the costs involved.

Seemingly this endeavour has been a very poor use of resource as the end result is no obvious change into the situation before works began, this request will hopefully help me understand why the project was undertaken in the first place and at what cost."

6. The Council wrote to the complainant on 1 December 2020 to acknowledge the request.
7. On 3 March 2021 and 4 May 2021, the Council wrote to the complainant to provide him with an update on the status of his request. By the date of this notice the Council had not provided a substantive response to the request.

Scope of the case

8. The complainant contacted the Commissioner 10 May 2021 to complain about the Council's failure to respond to his request.
9. The Commissioner contacted the Council on 9 June 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. The Commissioner also contacted the complainant on 9 June 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.

11. The complainant has provided evidence that he has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to her information request.
12. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

13. Section 10 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.*

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. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner’s decision is that the Council 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

Susan Duffy
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF