

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 September 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 held by Brighton and Hove City Council relating to the responses of any requests made under the Freedom of Information Act or Environmental Information Regulations.
2. The Commissioner's decision is that Brighton and Hove City Council ("the Council") 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, under the FOIA, to the request.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 28 May 2021, the complainant wrote to the Council and requested information in the following terms:

'Dear Brighton and Hove City Council,

Please provide the following information under the Freedom of Information Act 2000.

- The number of requests made to the council as a request for information under the Freedom of Information Act or the Environmental Information Regulations within the last five years that have not received a response, excluding any auto-reply or acknowledgment, within 20 working days.

- The outcome of any internal review related to the aforementioned requests.

- The number of FOI/EIR requests made to the council that have resulted in a complaint being made to the Information Commissioner's Office by the requester and any details held regarding the complaints and the outcome of such complaints, within the last five years.

Many thanks in advance.'

6. The Council acknowledged the request on 28 May 2021 and asked for clarity concerning the request on 1 June 2021. Clarity was provided on the same date but the Council had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 15 July 2021 to complain about the failure, by the Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 22 July 2021 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.

9. The complainant contacted the Commissioner on 19 August 2021 to request a decision notice considering the Council's compliance with the FOIA.
10. 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

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 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.*"
13. 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 Council has breached section 10 of the FOIA.

Right of appeal

14. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

15. 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.
16. 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

Michael Lea
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF