

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2021

Public Authority: South Somerset District Council
Address: Council Offices
Brympton Way
Yeovil Somerset,
BA202HT

Decision (including any steps ordered)

1. The complainant requested from South Somerset District Council information relating to planning applications and the preparation of a planning officer's report.
2. South Somerset District Council disclosed the information it held falling within the scope of the complainant's request but took in excess of 20 working days in which to do so. As a result, it breached Section 10 of the FOIA.
3. As the requested information has now been disclosed, the Commissioner does not require South Somerset District Council to take any steps.

Request and response

4. On 24 August 2020 the complainant wrote to South Somerset District Council (the Council) and requested information in the following terms:

"I would like to request the following documentation under the FOI Act:

Work instructions/procedure/manual relating to how to create an Officer's Report for Planning Applications

Any template documents or standard format for an Officer's Report

Work instructions/procedure/manual for the checklist for a Planning Application

A blank checklist for a Planning Application. Thank you in advance."

5. The Council acknowledged the request the same day stating there might be a delay in responding due to 'staff being diverted to delivery of front line services'.
6. In the absence of a response, the complainant chased the Council on 5 October 2020.
7. The Council responded on 9 October 2020 apologising for the delay stating that the planning team was operating under a very high work load. However, it would forward her request on and provide her with an update when received by the FOI team.
8. On 4 January 2021 the Council responded. It stated it had consulted with 'colleagues in the planning section and there was no formal template or adopted manual for the preparation of an officer report'. However, it did disclose a document giving an example of the 'type of headings that could be included'. Such headings to be 'determined by the nature of the application, its complexity, site history, consultation and contributors' response and national and local policies'. The Council also disclosed the planning application guide and the checklist requested.
9. The complainant requested an internal review on 16 November 2020 in relation to her various information requests, including the one subject to this Decision Notice.
10. Following an internal review the Council wrote to the complainant on 22 January 2021. It stated all the relevant information regarding the planning application process used by the planning team in the preparation of a report had been disclosed. It added that the content of each report could be different dependant on the nature of the application being made.

Scope of the case

11. The complainant contacted the Commissioner in January 2021 to complain about the way her request for information had been handled. In particular, she was unhappy with the Council's delayed and inadequate responses.
12. The Commissioner contacted the complainant on 16 August 2021 to clarify exactly what information had been disclosed and what information she believed was still outstanding. The Commissioner also pointed out that, under the FOIA, a public authority was not obliged to

create new information to answer a request. She added it was only obligated to confirm the recorded information it held and then to either disclose or redact/withhold it, by citing one or more of the exemptions under the FOIA.

13. Having received clarification from the complainant on 19 August the Commissioner wrote to the Council on 23 August 2021 in relation to the request for details of the information held and disclosed.
14. The Council responded on 16 September 2021 with the information requested by the Commissioner.
15. The Commissioner then contacted the complainant on 23 September 2021 who agreed the scope of her complaint would be limited to the Council's delay in responding to her information request under the FOIA.

Reasons for decision

16. 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."

17. 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"*.
18. It is clear from the evidence provided in this case that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached Section 10(1) by failing to respond to the request within 20 working days.
19. As the requested information has now been disclosed no further action is required.

Other matters

Internal reviews – responding to information and internal review requests

20. The Commissioner would like to remind the Council of its obligations under the FOIA in relation to the time it takes to respond to both initial requests and those for an internal review.
21. The FOIA does not require an authority to have a review procedure in place. However, both the Code of Practice made under Section 45 of the FOIA (the "Code") and the Commissioner recommend it is good practice to have one.
22. Paragraph 5.1 of the Code recommends that "It is best practice for each public authority to have a procedure in place for dealing with disputes about its handling of requests for information."
23. Section 17(7) of FOIA requires public authorities to provide the details of the internal review process if they have one. They should also inform the applicant of their right to complain to the Commissioner under Section 50 if they are still dissatisfied following the outcome of the internal review.
24. Paragraphs 5.4 and 5.5 of the Code advise that although there is no statutory time limit for carrying out a review, it is best practice to do so within twenty working days or in exceptional circumstances, forty working days.
25. In this case, when the Council responded to the complainant's initial request it did not mention its internal review procedure. Furthermore, in its internal review response the Council did not include the complainant's right to refer the matter to the Information Commissioner's Office.

Right of appeal

26. 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

27. 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.
28. 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

**Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
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Cheshire
SK9 5AF**