

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 14 April 2022

**Public Authority:** Birmingham City Council  
**Address:** Council House  
Victoria Square  
Birmingham  
B1 1BB

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Birmingham City Council ("the Council") relating to avian influenza. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
  - The Council must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The Council must take this step 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

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5. On 23 February 2022, the complainant wrote to the Council and requested information in the following terms:

"I would like you to treat the request for information below under the terms of the Freedom of Information Act 2000 and look forward to receiving the information by 23rd March at the latest. Please forward as below by email.

1. The minutes of any Council meetings (convened either formally or informally and particularly the Avian Influenza Emergency Cell) which have been held in the period 1st December 2021 to 23rd February 2022 to discuss avian influenza in the city.
  2. Copies of all advice received from the UK Health Security Agency and the Department for Environment, Food and Rural Affairs in the period 1st December 2021 to 23rd February 2022 relating to risks to the public, particularly in relation to water-based activities.
  3. Copies of any risk assessments or risk management plans drawn up by the Council as a result of advice received from the UKHSA.
  4. Copies of any correspondence between the Council and the members for North Edgbaston and Ladywood wards and Cabinet Members concerning avian influenza.
  5. Correspondence with other local authorities and water authorities (namely the Canal and River Trust and Severn Trent) on the subject of avian influenza and the risks to the public, particularly in relation to water-based activities."
6. The Council wrote to the complainant on 23 February 2022 to acknowledge the request. By the date of this notice, the Council has not provided the complainant with a substantive response to their request.

## Scope of the case

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7. The complainant contacted the Commissioner on 23 March 2022 to complain about the Council's failure to respond to their request.

8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

### **Reasons for decision**

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9. 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.”
10. 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”.
11. On 29 March 2022 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.
12. Despite this intervention, the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear 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 and it is now required to respond to the request in accordance with the FOIA.

## Right of appeal

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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 .....**

**Catherine Fletcher  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**