

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 April 2022

Public Authority: Rochdale Metropolitan Borough Council

Address: Number One Riverside

Smith Street

Rochdale

OL16 1XU

Decision (including any steps ordered)

1. The complainant requested information relating to dog kennelling. Rochdale Borough Council disclosed some information, confirmed other information was not held and withheld some information under the exemption for commercial interests (section 43(2)).
2. The Commissioner's decision is that Rochdale Borough Council failed to respond in time and breached section 10(1) of the FOIA.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 30 April 2020, the complainant wrote to Rochdale Borough Council (the "council") and requested the following information:

"Stockport Council has recently procured for the framework contract for the provision of dog warden services on behalf of the Association of Greater Manchester Authorities. Please can you let me know if the procurement process for the framework contract is complete. If the procurement process has been completed, please can you advise if you have individually tendered or will be tendering for the collection, kennelling of stray dogs or out of hours service with any of the approved suppliers."

5. On 11 May 2020 the complainant wrote to the council again, chasing a response and requesting the following additional information:

"Please can you also let have a copy of the current contract between Rochdale Council and Animal Wardens Ltd for the collection of stray dogs, and let me have a copy of the contract between the Council and Manchester and District Home for Lost Dogs for the kennelling of stray dogs."

6. On 14 May 2020 the council advised the complainant that their response would be delayed due to the pandemic. The council issued a substantive response on 17 December 2020 which addressed the complainant's queries.

7. On 22 December 2020 the complainant wrote to the council to request an internal review. In this email the complainant also requested further additional information:

"If the Council no longer has formal contracts with Animal Wardens Ltd and Manchester and District Home for Lost Dogs, please can you provide me with copies of the most recent contracts held by the Council. If no current formal contracts are held, please can you provide me with the details of any arrangements made between Rochdale Council and Animal Wardens Ltd, Manchester Dogs Home or any other third party organisation for the seizure, kennelling and disposal of stray dogs, including the price paid by the Council and any terms and conditions agreed between the Council and those organisations for the service provided. If any of the above functions are now being exercised "in-house" by the Council, please confirm the date upon which that took effect. If the Council is contracting (either formally or otherwise) with organisations other than Animal Wardens Ltd and Manchester and District Home for Lost Dogs for the seizure, kennelling and disposal of stray dogs, please confirm the names and addresses of those organisations and the dates upon which those new arrangements took

place. For the avoidance of doubt, by "contracting" I am referring to the provision of services by a third party organisation to the Council in consideration for payment by the Council for those services. You have confirmed that Rochdale Council does not pay Animal Wardens Ltd a monthly retainer for the kennelling of stray dogs at Common Fold. Please kindly confirm whether or not the Council makes any payment whatsoever (either weekly, monthly annually or otherwise) for the kennelling of stray dogs by Animal Wardens Ltd at Common Fold Kennels or at any other location. If the Council does make any such payments, please confirm the amounts and regularity of those payments for the financial years 2018-19 and 2019-20 and state the location where the dogs are kennelled."

8. The council issued its review response on 15 March 2021. This disclosed further information and withheld some information under section 43(2).

Scope of the case

9. On 27 March 2021 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
10. The Commissioner confirmed with the complainant that he would issue a decision notice in relation to the timeliness of the council's responses.

Reasons for decision

Section 10 – time for compliance

11. Section 1(1) of the FOIA requires public authorities to confirm or deny whether the information specified in a request is held and, where it is, to disclose it to a requester.
12. Section 10(1) of the FOIA requires public authorities to comply with section 1(1) within 20 working days.
13. In this case the complainant submitted their request on 30 April 2020 (and additional information on 11 May 2020) but the council did not provide a formal response until 17 December 2020.
14. The Commissioner has, therefore, found that the council breached section 10(1).

Other matters

15. Although they do not form part of this decision notice the Commissioner wishes to note the following matters of concern.

Request handling practice

16. During the Commissioner's investigation some inconsistencies in the council's position came to light regarding the extent of information held and the facts relevant to the request. The Commissioner believes that it is likely, therefore, that the request did not receive due consideration when it was originally submitted.
17. The Commissioner considers that, had the council dealt with the request properly, the complainant might not have had to refer the matter to the Commissioner, incurring further delays and further burdens on public resources.
18. In future the Commissioner expects that the council will handle requests in accordance with the legislation and with regard to the code of practice issued under section 45 of the FOIA¹.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

Right of appeal

19. 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

20. 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.
21. 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

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