

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 13 September 2018

**Public Authority:** Wigan Metropolitan Borough Council  
**Address:** Town Hall  
Library Street  
Wigan  
WN1 3DS

#### Decision (including any steps ordered)

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1. The complainant requested a copy of a specific Equality Impact Assessment.
2. The Commissioner's decision is that Wigan Metropolitan Borough Council ("the Council") failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. As a response has now been issued, the Commissioner does not require the Council to take any further steps.

#### Request and response

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4. On 14 May 2018, the complainant wrote to the Council and requested information in the following terms:  
  
*"This is a request for a copy of the Equality Impact Assessment (EIA) re. your; Adult Services Complaints Safeguarding of Vulnerable adults."*
5. The Council acknowledged the request on the same day but did not provide a substantive response until 13 July 2018.

## Scope of the case

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6. The complainant contacted the Commissioner on 16 July 2018 to complain about the failure, by the Council, to respond to the request within 20 working days.
7. In line with her usual practice, the Commissioner contacted the Council on 22 August 2018 to notify it that she had received a complaint about a late response.
8. The scope of this notice and the following analysis is to consider whether Council has complied with Section 10 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 8(1) of the FOIA states:

*In this Act any reference to a "request for information" is a reference to such a request which –*

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

11. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
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. The Council has pointed out to the Commissioner that the request was not submitted through its formal FOI process. The request appears to have been made through an online form and the Council has been unable to identify the form that was used (there are multiple forms for different Council services) or which department the request was, in fact, sent to. Nevertheless, it accepts that it did, as an organisation, receive and acknowledge the request.
14. The council did provide a response to the request on 16 July 2018.
15. From the evidence presented to the Commissioner in this case, it is clear that the Council, as an organisation, received the request on 14 May 2018 and therefore, in failing to issue a response to the request within 20 working days, the Council has breached Section 10 of the FOIA.

### **Other matters**

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16. Whilst the Commissioner would always encourage requestors to contact the information management team (or equivalent) at the public authority in question in order to have the request dealt with expeditiously, there is no requirement within the FOIA to do so.
17. The Commissioner would draw the Council's attention to her published guidance on identifying information requests.<sup>1</sup> It is important that all staff are aware of their responsibilities for recognising information requests and of the organisation's policy for logging such requests, to ensure that they are processed (and therefore responded to) promptly and within the statutory time limit.

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<sup>1</sup> <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>

## Right of appeal

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18. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

19. 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.
20. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**