

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 February 2021

Public Authority: Penketh Parish Council
Address: Honiton Way
Penketh
Warrington
WA5 2EY

Decision (including any steps ordered)

1. The complainant requested from Penketh Parish Council ("the Council") information relating to the closure of Penketh swimming pool and the AGAR tax audit report. By the date of this notice the Council had not provided a substantive response to this request.
2. The Commissioner's decision is that the Council has 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 to the request in accordance with its obligations under the FOIA.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 22 October 2020, the complainant wrote to the Council and requested information in the following terms:

"Under the freedom of information, I would be grateful if you would provide a copy of the following documents;

The Health & Safety report recently produced by WBC detailing the problems that are preventing the pool from opening.

The AGAR audit report for the tax year 2019/2020."
6. On 29 November, as the complainant had not received a response, he wrote to the Council and requested an update on the status of his information request.
7. The Council responded on 3 December 2020 and provided the complainant with an update on its response to his request.
8. On 9 December 2020 the complainant wrote to the Council again to ask for a further update on its response to his request. By the date of this notice the Council had not responded to the complainant.

Scope of the case

9. The complainant contacted the Commissioner 15 December 2020 to complain about the Council's failure to respond to his request.
10. The Commissioner contacted the Council on 14 January 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
11. The Commissioner also contacted the complainant on 14 January 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.
12. The Council did not acknowledge or respond to the Commissioner's correspondence of 14 January 2021.
13. The complainant has provided evidence that he has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to his information request.
14. 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

15. Section 10 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.

16. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the FOIA.

17. 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.*"

18. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached section 10 of the FOIA.

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

Ben Tomes
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