

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 November 2021

Public Authority: Maker with Rame Parish Council
Address: Fore Street
Kingsand
Torpoint
Cornwall PL10 1NB

Decision (including any steps ordered)

1. The complainant requested information from Maker with Rame Parish Council ("the Council") about its decision-making process in relation to its dealings with unreasonable customers and persistent complainers.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days, and was therefore in breach of section 10 of the FOIA.
3. As a response has now been issued, the Commissioner does not require any steps to be taken.

Request and response

4. On 21 December 2020, the complainant wrote to the Council and requested information in the following terms:

"- the PC adopted Cornwall Council's 'unreasonable customer behaviour policy' - in less than 2 minutes - on 10 September. Since this policy in this form is clearly not fit for purpose for the MWR PC, which relevant Parish Council policy justifies your action taken as set out in the above email and which relevant section(s) in your own PC policy informs me

of the right to appeal - in case your decision may have been taken unfairly and/or in error?

- most of my communications have been questions in relation to the way MWR PC have handled planning application PA20/03747. Given the potential for (perceived) conflict of interest, which councillor(s) declared an interest when the Parish Council took their decision to label me a 'persistent complainer'?

- your email states the decision was taken during the 10 December PC meeting. However, already on 25 November I received an email from the clerk which stated 'your correspondence has forward to the single point of contact Cornwall Council'. On whose authority did the clerk act, two weeks prior to the PC's decision of 10 December?

- what is this 'single point of contact Cornwall Council' and what is its function/purpose?

- in what way is Mwr PC adhering to the most current data protection/ GDPR legislation when forwarding correspondence to the Mwr PC on to a 3rd party - in this case CC?"

5. The Council did not respond to the requests until 27 October 2021, following the involvement of the Commissioner.

Scope of the case and background

6. The complainant contacted the Commissioner on 1 February 2021 to complain about the way his request for information had been handled. At this stage, he had not received a response.
7. Concurrently with this investigation, the Commissioner investigated the Council's handling of other requests made by the complainant between September-October 2020, and in March 2021.
8. On 6 September 2021, the Commissioner wrote to the Council. She explained that she required further action from the Council, including that it should respond to the request under consideration in this notice.
9. She also required the Council to respond to the requests made between September-October 2020 and March 2021. The Commissioner is issuing decisions regarding the handling of those requests under the reference numbers IC-65675-B5D3 and IC-127265-R9J5 respectively.

10. As previously referred to, the Council issued a response to the complainant on 27 October 2021. In its response, the Council provided some general explanations to the complainant. However, no recorded information was located, falling within the scope of the request of 21 December 2020.
11. Since the complainant made his requests, the Commissioner is aware that there has been an almost complete change of personnel at the Council.
12. She is aware that, since August 2021, the current Chair and Acting Clerk have carried out extensive searches to see whether any recorded information is held falling within the scope of the complainant's requests.
13. However, it has not been possible to determine conclusively whether, if the council officials who were in post at the time of the request had carried out effective searches at that time, recorded information falling within the scope of the request of 21 December 2020 may have been located.
14. This is highly regrettable, which is acknowledged by the Commissioner, the complainant, and the current Council. However, the complainant accepts that no recorded information, falling within the scope of the request under consideration in this notice, is now held, and has asked the Commissioner to focus on the Council's failure to respond at the correct time.
15. This notice covers whether the Council responded to the request within the statutory time-frame.

Reasons for decision

Section 1 FOIA – access to information

16. Section 1(1)(a) of the FOIA states that "*any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request.*"
17. Section 10 of the FOIA (time for compliance with the request) states that: "*a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.*"

18. Whilst the Council has now provided the complainant with a response, which included some explanations but confirmed that it has not located any recorded information falling within the scope of the request, it did so over ten months after the request was made.
19. This is outside of the statutory 20 working days; therefore the Council breached section 10 of the FOIA.
20. No further action is required, as a response has now been provided.

Other matters

21. The Commissioner considers that the initial handling of this request, and of the complainant's other requests as considered on decision notices reference IC-65675-B5D3 and IC-127265-R9J5 respectively, by the previous officers of the Council, was wholly inadequate. This is highly regrettable.
22. She is also aware that the previous officers may have failed to retain relevant information, which has been investigated separately.
23. The Council must ensure that it considers future information requests in a timely manner, including determining whether they fall to be considered under the DPA (in case where a requester is asking for their own personal data), the FOIA and/or the EIR, and to respond accordingly, as required by the legislation.

Right of appeal

24. 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

25. 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.
26. 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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