

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 12 April 2018

**Public Authority:** Sandwell Metropolitan Borough Council  
**Address:** Freeth Street  
Oldbury  
B69 3DE

#### Decision (including any steps ordered)

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1. The complainant requested copies of emails. Sandwell Metropolitan Borough Council (the Council) failed to respond to the request and in so doing breached sections 1(1) and 10(1) of the FOIA. It is now required to respond to the complainant's request.
2. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Provide a substantive response to the complainant's information request.
3. 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 FOIA and may be dealt with as a contempt of court.

#### Request and response

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4. On 14 August 2017 the complainant wrote to the Council and requested information in the following terms:

*"For the email addresses listed below, please can you provide me with copies of all emails both sent and received that include in the subject title, 'Businesses in Wednesbury Town Centre' and/or 'Wednesbury BID' during the period 1st September 2016 through to 14th August 2017.*

*Email Addresses:*

*[13 named email accounts]"*

5. Whilst the complainant received an initial response on 11 September 2017 asking his agreement to a five working days extension to the time to respond to his request, to which he agreed, and chased the Council for a substantive response on several other occasions, by the date of this notice the Council had failed to respond substantively to the complainant's information request.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 4 January 2018 to complain about the failure by the Council to respond to his information request. The Commissioner contacted the Council on 2 February 2018 and 16 March 2018 but received no reply. The complainant confirmed shortly prior to the date of this notice that he had still not received a substantive response to his request.

### **Reasons for decision**

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#### **Sections 1 and 10**

7. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them. 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*".
8. In this case the Council has breached sections 1(1) and 10(1) by failing to respond substantively to the request within 20 working days. The Council is now required to respond to the complainant's request in accordance with the FOIA.

## **Other matters**

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9. As well as issuing this notice, the Commissioner has made a separate record of the failure by the Council to respond to the complainant's request. The Commissioner is concerned about the severe delay in responding to the complainant and about the lack of response to correspondence from her office. She will be closely monitoring complaints she receives for any evidence that this is a pattern of non-compliance by the Council and considering what further action may be necessary.

## Right of appeal

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10. 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: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

11. 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.
12. 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**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**