

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 September 2023

Public Authority: St Helens Metropolitan Borough Council

Address: 4 Corporation Street

St Helens

WA9 1LD

Decision (including any steps ordered)

1. The complainant requested information from St Helens Metropolitan Borough Council (SHMBC). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the SHMBC has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation.
 - SHMBC must provide a substantive response to the request in accordance with its obligations under FOIA.
4. SHMBC must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 19 May 2023, the complainant wrote to the public authority and requested information in the following terms:

"My question relates to a complaint which I raised concerning a piece of land adjacent to the substation at 201 Gorse Lane, Clock Face, St Helens, owned by Mr Mark Ward, which has been unlawfully allocated to strategic site 4HA. I have made a formal complaint about this matter, following the Council's Comments, Compliments and Complaints Policy. The stage 2 complaint was picked up by Ms Lisa Harris, Executive Director Place. The complaint was moved into stage 2 on Thursday 13 April 2023. According to the Council's policy document, a reply would be expected in 15 working days, with a deadline of Friday 5 May. No response has been forthcoming, despite a reminder sent to Ms Harris on 10 May. Why has the council made no response? On whose authority has the decision been made not to respond to the complaint?"

Reasons for decision

6. Section 1(1) of 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."

7. Section 10(1) of 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. On 24 August 2023 the Commissioner wrote to the public authority, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.

9. SHMBC contacted the Commissioner on 24 August to request an extension of time to reply due to a shutdown of internal IT systems which was reported. No expected date or timeline for a response was provided.

10. SHMBC assured the Commissioner that they would inform the complainant of the situation and provide a response once they had access to the information sought.

11. Despite this intervention the public authority has failed to respond to both the complainant and the Commissioner.
12. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with FOIA. The Commissioner finds that the public authority has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.

Right of appeal

13. 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

14. 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.
15. 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

Amie Murray
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