

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 21 June 2011

Public Authority: London Borough of Barking and Dagenham
Address: Roycraft House
Barking
Essex
IG11 8HE

Summary

The complainant requested information concerning the analysis of recent questionnaires relating to two named roads. The London Borough of Barking and Dagenham (LBBB) acknowledged the request on the same day. To date, the complainant has not received a substantive response from LBBB. The Commissioner has investigated and finds that LBBB breached section 10(1) of the Act in failing to provide a response within 20 working days. The Commissioner now requires LBBB to either provide the information to the complainant or issue a refusal notice under section 17(1) of the Act.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 7 January 2011 the complainant requested the following information:

"Could you please supply me with the analysis of the recent questionnaire conducted between Essex Road and Sussex Road and any outcomes reached. It would also be helpful to know what other analysis will be used in deciding the outcome and whether there will be further opportunity for residents to comment."

Please include copies of material which you hold in the form of paper and electronic records including emails relating to residential parking in this area."

3. On 7 January 2011 the London Borough of Barking and Dagenham (LBBD) acknowledged the request.
4. On 1 February 2011 the complainant chased a response from LBBD.
5. On 4 February 2011 LBBD apologised for the delay and explained it was waiting for a response from the relevant service area before providing a response.

Scope of the case

6. On 21 February 2011 the complainant contacted the Commissioner to complain about the way her request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that LBBD had, to date, not provided a substantive response.

Chronology

7. On 12 March 2011 the Commissioner wrote to LBBD asking it to provide a response to the complainant within 10 working days.
8. On 5 May 2011 the complainant wrote to the Commissioner and confirmed that she had not received a response from LBBD.

Analysis

Procedural Requirements

9. Section 10(1) of the Act states that a public authority should comply with a request for information within 20 working days from the date of receipt.
10. The information provided to the Commissioner in this case shows that LBBD has not responded to the complainant within the statutory time frame. The request was made on 7 January 2011 and, to date, no response has been provided.

The Decision

11. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act. In failing to

confirm or deny whether it held information falling within the request, it breached section 10(1) of the Act.

Steps Required

12. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
 - confirm that information pertaining to the request is held and provide the requested information to the complainant to comply with section 1(1)(a) and 1(1)(b), or
 - issue a valid refusal notice under section 17(1).
13. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

14. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

15. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

16. 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.
17. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 21st day of June 2011

Signed

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

Legal Annex

General Right of Access

Section 1(1) provides 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."

Time for compliance

Section 10(1) provides that –

"Subject to subsections (2) and (3), 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."

Refusal of Request

Section 17(1) provides that -

"A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

- (a) states that fact,
- (a) specifies the exemption in question, and
- (b) states (if that would not otherwise be apparent) why the exemption applies."