

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 11 June 2012

**Public Authority:** British Waterways  
**Address:** 64 Clarendon Road  
Watford  
Hertfordshire  
WD17 1DA

### Decision (including any steps ordered)

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1. The complainant requested details about British Waterways' Directors' 'perks', gifts or free trips over the last three years, to include those provided by any organisation or contractor related to the Olympics, and for details of the Directors' interests such as share ownership. He also asked for all the above information to be provided in respect of a named British Waterways employee.
2. Whilst a partial response was provided to the complainant on 28 April 2011, this was outside the statutory timeframe of 20 working days. No substantive response has been forthcoming in relation to the remainder of the request and to the complainant's subsequent clarification of his request. The Information Commissioner's decision is that British Waterways did not deal with the request for information in accordance with the FOIA. British Waterways breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - confirm or deny whether the requested information is held in respect of the request, to comply with section 1(1)(a);
  - if information is held in respect of the request, either provide the information to comply with section 1(1)(b), or withhold the information by issuing a valid refusal notice(s) under section 17(1) of FOIA.

4. The public authority 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

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5. On 24 March 2011 the complainant wrote to British Waterways and requested the following information:
  - "1. Please provide details (type, nature and origin) of all perks, gifts, free trips, and such like that have been received by the directors of BW over the last 3 years. Please also provide similar information in relation to your employee [name redacted].*
  - 2. Please provide details of interests held by the directors of BW, such as share ownership, in organisations outside and owned by BW. Such interests may include interests in development, construction, and or maintenance companies. Or any other company supplying, or likely to supply, services to or do carry out business with BW. Please provide similar for your employee [name redacted].*
  - 3. Please provide details of any perks, gifts or free trips etc provided to your directors, and [name redacted], from any Olympic related organisation or contractor."*
6. British Waterways acknowledged receipt of the request the following day.
7. On 26 April 2011 the complainant wrote to British Waterways querying the now overdue response.
8. British Waterways provided a partial response on 28 April 2011. It stated that it was still waiting for some information in relation to the first and third parts of the request, but provided the information in relation to the second part of the request.
9. On 29 April 2011 the complainant wrote to British Waterways with some additional clarification in relation to the information he had requested and asked it to include this as part of its response.
10. In the absence of any further response from British Waterways, the complainant requested an internal review on 26 May 2011.

11. The complainant contacted the public authority on 14 June 2011 for confirmation that it had received his internal review request; British Waterways acknowledged receipt the following day, explaining that the employee to whom the internal review had been sent was no longer employed and that it had been "*overlooked*".
12. The complainant contacted British Waterways again on 15 July 2011 and 4 August 2011 to ask for the result of the internal review. To date, the Information Commissioner has seen no evidence that British Waterways has provided the complainant with the outcome of the internal review.
13. In addition, the Information Commissioner wrote to British Waterways on 20 September 2011, having received a complaint from the complainant, asking it to respond within ten working days; however, no response has been provided.

### **Scope of the case**

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14. On 13 August 2011 the complainant contacted the Commissioner to complain about the way his request for information had been handled.
15. He specifically asked the Information Commissioner to consider the fact that no substantive response had been provided to either his request or internal review, the latter being considered in the '*Other Matters*' section of this notice.

### **Reasons for decision**

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16. Section 8(1) of FOIA states that requests for information should be in writing, should bear the name and address of the applicant and describe the information requested. The Information Commissioner considers that the request in this case can be defined as such and therefore constituted a valid request under FOIA for recorded information.
17. Section 10(1) of FOIA states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
18. From the information provided to the Information Commissioner it is evident that British Waterways did not respond to any part of the request within the statutory time frame.

### *Conclusion*

19. The Information Commissioner's decision is that British Waterways did not deal with the request for information in accordance with FOIA. British Waterways breached section 10(1) of FOIA by failing to provide a response to the request within the statutory timeframe of 20 working days.

### **Other matters**

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20. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his *'Good Practice Guidance No 5'*, the Information Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by the Act, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Information Commissioner is concerned that in this case, the internal review is yet to be completed, despite the publication of his guidance on the matter.

## Right of appeal

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21. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

22. 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.
23. 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** .....

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