

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 January 2015

Public Authority: Ascham Homes
Address: Willow House
869 Forest Road
London
E17 4UH

Decision (including any steps ordered)

1. The complainant requested information from Ascham Homes on 17 October 2013. The information sought by the complainant relates to a previous case considered by the Information Commissioner under reference FS50477493 and concerns work carried out at the complainant's home by a third party contractor – Breyer Group plc.
2. The Commissioner's decision is that Ascham Homes has contravened section 10 of the FOIA by failing to respond to the complainant's request within the twenty day compliance period.
3. The Commissioner does not require Ascham Homes to take any further action in this matter.

Request and response

4. On 17 October 2013, the complainant wrote to Ascham Homes and asked it to review the response it made to a request for information she had made on 26 January 2012.
5. The complainant's request of 26 January 2012 was subject to a decision notice issued by the Commissioner on 9 September 2013, under reference FS50477493. The Commissioner's decision in that case was that Ascham Homes had not met its obligations under sections 1 and 10 of the Freedom of Information Act 2000 (the Act). The Commissioner

required Ascham Homes to issue a response to that information request within 35 days of the notice.

6. In the complainant's request for review of 17 October, the complainant asked for information relating to item 3 of her previous request. The terms of the complainant's new request are:

"Item 3

Please clarify whether or not between May - August 2006 Ascham Homes and the Council or Ascham homes contracted with Breyers to carry out its DHP [Decent Homes Programme].

Please clarify whether or not between May - August 2006 Ascham Homes and or the Council sent Breyers to my home to carry out the DHP.

Please disclose how you became aware that you have been in communication with their insurers. Please provide any documentary evidence passing between you and Breyers and the reason for such communication between you and Breyers."

7. In addition to the request for information associated with item 3, the complainant also asked Ascham Homes to provide her with a copy of a policy document which was referred to in Ascham Homes' response to question 4 of her initial request. The complainant understood the policy to be, 'Ascham Homes Policy whilst LGO enquiries are under investigation' or similar.
8. On 22 April 2014 the complainant wrote to Ascham Homes to complain about its failure to acknowledge or respond to her request for information.
9. On 12 May 2014 the complainant sent Ascham Homes a 'Letter of Claim' in which she cited the failure of Ascham homes to respond to her request for information of 17 October 2013.

Scope of the case

10. The complainant contacted the Commissioner on 3 June 2014 to complain about the way her request for information had been handled.
11. The Commissioner decided to investigate the complainant's concerns on the basis that Ascham Homes has failed to responded to her request of 17 October 2013.

Reasons for decision

12. Section 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."

13. Section 10 of the FOIA 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."

14. The Commissioner has determined that Ascham Homes is a public authority for the purpose of the freedom of Information Act. He has established that Ascham Homes is an 'Arm's Length Management Organisation' ("ALMO") set up as a not-for-profit company by the London Borough of Waltham Forest Council, in order to manage 12,400 homes on behalf of the Council.

15. In this case, following the Commissioner's intervention, Ascham Homes responded to the complainant's request on 9 December 2014.

16. The Council advised the Commissioner and the complainant that it was refusing to answer the first three elements the request made on 17 October 2013.

17. Ascham Homes determined the first three elements of that request constitute a vexatious request.

18. Ascham Homes did however supply the complainant with a copy of its insurance policy which was referred to in the Council's response to question 4 of her previous request for information – the subject of FS50477493.

19. Having made his intervention and having obtained a response for the complainant, the Commissioner must find that Ascham Homes has contravened section 10 of the FOIA. He notes that the response is over 1 year overdue and must impress on Ascham Homes that it must meet the its obligations under the FOIA when it receives requests for information in the future. It should endeavour to provide the information

which has been requested – if it is held, or it should issue a refusal notice under section 17 of the FOIA.

Right of appeal

20. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF