

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 December 2019

Public Authority: London Borough of Waltham Forest

Address: Town Hall
Forest Road
London
E17 4JF

Decision (including any steps ordered)

1. The complainant requested a variety of information relating to "water collection" in the London Borough of Waltham Forest (the London Borough).
2. The Commissioner's decision is that the London Borough failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner does not require steps to be taken in response to this decision notice.

Request and response

4. On 28 August 2019, the complainant wrote to the London Borough and requested information in the following terms:

"1) In 2016, the High Court ruled that Southwark - which claimed to have a water collection arrangement where it acted as an agent for the water company in collecting charges - was in fact a water reseller, and had therefore overcharged its tenants. See below link.

<http://www.bailii.org/ew/cases/EWHC/Ch/2016/457.html>

The ruling against Southwark set a legal precedent that means other councils and housing associations may now have to make a payout as well. In preparation of this, how much money have you set aside for your council tenants?

2. How many residential properties do you own? And how many are tenanted?

3) Did you seek legal advice in respect of this case and your water collection arrangement/s? If so, how much money was spent on legal fees? Please provide a breakdown citing Solicitor/QC fees, external consultations and so forth in a table for ease.

4) A copy of all the FOI requests submitted to you about this water collection arrangement by the BBC ([redacted] etc).

5. A copy of all the FOI disclosures released to the BBC ([redacted] etc) about this water collection arrangement.

I would like the above information to be provided to me in paper format and sent to the following address as per below:-

[redacted]"

5. Following a 9 September 2019 email from the complainant, stating only *"Deadline date?! Case reference number?!"* the London Borough acknowledged the request.
6. The London Borough wrote to the complainant on 25 September 2019 – the twentieth working day following receipt of the request – stating that their response would be delayed until the end of the week.

7. Two working days later, on 27 September 2019, the London Borough wrote to the complainant via email to provide the requested information.
8. The complainant wrote to the London Borough on 29 September 2019 reminding them of their stated preference for the information to be provided in paper format.
9. The London Borough responded on 30 September 2019 stating that a copy of the response had been sent out in the post.

Scope of the case

10. The complainant contacted the Commissioner on 26 September 2019 to complain about the failure, by the London Borough, to respond to the request.
11. The complainant provided evidence in support of this complaint on 17 November 2019 and provided no further update as to the status of their request.
12. In line with her usual practice, the Commissioner contacted the London Borough on 19 November 2019 to highlight the apparently outstanding response. She requested that the London Borough respond to the request within 10 working days.
13. On 25 November 2019 the London Borough wrote to the Commissioner to stating that a response was issued to the complainant on 27 September 2019. The London Borough provided the Commissioner with a copy of this response.
14. The complainant contacted the Commissioner on 1 December 2019 to request a decision notice considering the London Borough's compliance with the FOIA.
15. The complainant contacted the Commissioner on 6 December 2019 stating that *"the public authority have failed to comply with your 10-day deadline."*
16. Section 50(1) of the Act states:

*"Any person (in this section referred to as "the complainant") may apply to the Commissioner for a decision whether, **in any specified respect**, a request for information made by the complainant to a public authority has been dealt with in accordance with the requirements of Part 1."* [emphasis added]

17. As the grounds of the 26 September 2019 complainant to the Commissioner concerned only the timeliness of the London Borough's response, and as no further specified grounds for a complaint have been raised to the Commissioner, she considers the scope of this notice and the following analysis to be whether or not the London Borough has complied with section 10 of the FOIA.

Reasons for decision

18. Section 1(1) of the 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.*

19. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

20. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

21. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

22. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the London Borough has breached section 10 of the FOIA.

Other matters

23. The Commissioner notes that her 17 November 2019 correspondence to the London Borough asked that a *response* be issued to the request. As it is clear that this response was issued on the 27 September 2019, the Commissioner does not consider that "*the public authority have failed to comply*" with the deadline set in her 17 November 2019 correspondence.

Right of appeal

24. 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@justice.gov.uk

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

25. 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.
26. 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

Phillip Angell
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