

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 February 2020

Public Authority: London Borough of Hammersmith and Fulham
Address: Hammersmith Town Hall
King Street
London
W6 9JU

Decision (including any steps ordered)

1. The complainant requested emails containing a particular subject line. The London Borough of Hammersmith and Fulham ("the London Borough") had failed to respond to the request at the date of this notice.
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 requires the London Borough to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The London Borough 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 16 December 2019, the complainant wrote to the London Borough and requested information in the following terms:

"Please provide all emails between the dates of 16/09/2019 and 16/12/2019 inclusive, that contain the string "Harwood" sent to or from anyone with an email address ending @lbhf.gov.uk

"This should include emails sent and received to/from external email addresses.

"Please exclude the 20,000 or so (external) emails sent as part of the residents campaign to reopen Harwood Terrace. These emails all contain [redacted] in either the FROM or CC section of the header info..

"If the time taken to do this search still exceeds the limits under the Act, please limit to the emails sent by and to these email addresses:

[addresses redacted]

"If the time taken to do this search still exceeds the limits under the Act, please limit the search to the emails sent by and to as many of the email addresses listed above in order of preference as listed."

6. The London Borough acknowledged the request on 2 January 2020 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 29 January 2020 to complain about the failure, by the London Borough, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the London Borough on 8 February 2020 to highlight the outstanding response. She requested that the London Borough respond to the request within 10 working days. The London Borough responded on 26 February 2020 to say that it needed further time to process the request – thought it did not say how much further time it needed.
9. The complainant contacted the Commissioner on 26 February 2020 to request a decision notice considering the London Borough's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether the London Borough has complied with section 10 of the FOIA.

Reasons for decision

11. 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.*

12. 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.*

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

14. 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.*"

15. 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.

Right of appeal

16. 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

17. 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.
18. 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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