

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 July 2021

Public Authority: London Borough of Waltham Forest

Address: Forest Road
Walthamstow
E17 4JF

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Waltham Forest (the London Borough) about a specified contract.
2. The Commissioner's decision is that the London Borough responded to the request within 20 working days as required by section 10 of the FOIA. The Commissioner also finds that the London Borough met its obligations under section 11 of the FOIA (means of communicating information) by providing the complainant with a postal response to her request for information.
3. No steps are required.

Request and response

4. On 28 April 2021, the complainant wrote to the London Borough and requested information (specifying her preference for it to be sent to her in a hard copy format) in the following terms:

"Please will you provide me with an answer to the following:-

*1. The *full* date that you awarded MPD FM Ltd a contract for a waking watch service/fire warden duties?*

*2. The *full* date that MPD FM Ltd began to provide a waking watch service/fire warden duties at Northwood Tower?*

3a. Names of contractors who put forward bids/shortlisted in evaluation process.

- 3b. Amount the winning bidder's price was*
 - 3c. Amount each of the bidder's price was*
 - 3d. Copy of the winning bidders proposal/tender submission."*
5. On 26 May 2021, the London Borough posted a response to the complainant's request for information in accordance with her preference for a hard copy. The complainant received her postal response on 28 May 2021.

Scope of the case

6. The complainant contacted the Commissioner on 29 May 2021 to complain about the timing of the London Borough's response to her request.
7. The Commissioner has considered whether the London Borough has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA and in relation to section 11 (means of communicating information).

Reasons for decision

8. 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."*
9. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
10. Section 11 of the FOIA allows a requester to express a preference for having the information communicated by a particular means, including a preference to have the information provided in hard copy. The public authority must make the information available by the preferred means so far as it is reasonably practicable.

11. The Commissioner wrote to the London Borough to ask when the response to the request for information was posted and by what means.
12. The London Borough responded to the Commissioner's enquiries and confirmed that a response was posted on 26 May 2021 via first class post with the Royal Mail.
13. The London Borough sent an email to the complainant on 26 May 2021 to confirm that a response to her request for information had been posted.
14. In response to the Commissioner's enquiries, the London Borough explained further *"that normal practice is for the response to be uploaded onto the system or electronically sent where the requestor can obtain the response in real time. However, [name redacted] had previously complained and stated that the service was in breach due to the fact that it had been provided both by post and electronically and that in provided the information in both forms was not in accordance with her request. The Service therefore no longer uploads the responses for [name redacted] but post it instead."*
15. The deadline for the response to be provided was 27 May 2021. It should be noted that 3 May 2021 was a bank holiday and therefore, in accordance with section 10(6) of the FOIA, this day should not be included in the calculation of the timeframe for the response to be provided. The complainant argued that the response was due on 26 May 2021, having not included the 3 May 2021 bank holiday in her calculations.
16. The FOIA defines a working day as *"...any day other than a Saturday, Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom"*.
17. The Commissioner therefore finds that the London Borough issued a hard copy response to the request for information within the 20 working day time limit of the FOIA. The Commissioner is also satisfied that the London Borough complied with its obligations under section 11 of the FOIA.
18. The response was posted one working day within the deadline to respond, in accordance with the complainant's preference for a hard copy format. The fact that the response was received by the complainant on 28 May 2021, one working day over the time limit, cannot be considered a section 10 breach. The London Borough made reasonable efforts to meet the deadline by sending the response via first class mail.

Other matters

19. It is also worth noting that the London Borough was in a position to send a response to the request for information via email on 26 May 2021, but did not do so as the complainant has made complaints previously about receiving responses electronically. The Commissioner notes that the complainant made her request for information to the London Borough via email, as well as her complaint to the Commissioner via email. Given the complainant's high level of concern about receiving responses on time, she may wish to consider accepting responses to her information requests by email.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Ben Tomes
Group Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF