

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 March 2022

Public Authority: Bolton Borough Council
Address: Bolton Town Hall
Victoria Square
Bolton, BL1 1RU

Decision (including any steps ordered)

1. The complainant requested information relating to stray dogs. Bolton Borough Council (the "council") disclosed some information and confirmed that other information was not held.
2. The Commissioner's decision is that the council failed to respond to the request within the statutory time limit and breached section 10(1) of the FOIA.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 30 April 2020, the complainant wrote to Bolton Council (the "council") and requested information in the following terms:

"Stockport Council has recently procured for the framework contract for the provision of dog warden services on behalf of the Association of Greater Manchester Authorities. The framework contract runs from 8th May 2020 until 7th May 2022. Please can you let me know if the procurement process for the framework contract is complete. If the procurement process has been completed, please can you advise if Bolton Council has individually tendered or will be tendering for the collection, kennelling of stray dogs or out of hours service with any of the approved suppliers."
5. On 22 May 2020, the complainant chased a response to their request and requested the following additional information:

"Please can you let me know whether the Council proposes to tender individually for the collection, kennelling of stray dogs or out of hours service with any of the approved suppliers once the procurement process is complete. Please can you also advise me when the current contract with Animal Wardens Ltd for the out of hours service, and with Leigh Dogs and Cats Home and the Destitute Animal Shelter for the kennelling service are due to terminate. Please can you also let me have copies of the individual contracts between Bolton Council and Animal Wardens Ltd for the out of hours service and with Leigh Dogs and Cats Home and the Destitute Animal Shelter for the kennelling service."
6. The council responded on 11 November 2020 and disclosed some information.
7. On 16 November 2020 the complainant wrote to the council setting out their dissatisfaction with the response and reiterating the information specified in their requests.
8. The council issued a further response on 22 November 2020 which disclosed some information and withheld other information under the exemption for information provided in confidence – section 41 of the FOIA
9. Following an internal review the council wrote to the complainant on 17 December 2020. It disclosed further information. In relation to its previous reliance on section 41 to withhold information about *"...written contracts with Animal Wardens Ltd, Leigh Dogs and Cats Home or the Destitute Animal Shelter"*, the council confirmed that it did not actually hold this information and withdrew its reliance on the exemption.

Scope of the case

10. On 1 February 2021 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
11. During the investigation, the complainant raised concerns that the council had not fully addressed their request and that it had wrongly confirmed that some information was not held. They also asked the Commissioner to consider the timeliness of the council's response.
12. The Commissioner approached the council in relation to the above matters and, following further correspondence with the complainant, it was agreed that the only outstanding issue was the timeliness of the council's responses.

Reasons for decision

Section 10 – time for compliance

13. In relation to the duty to respond to requests, section 10(1) of the FOIA states:

"...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. In this case the complainant submitted their request on 30 April 2020 and the council provided a substantive response on 11 November 2020.
15. The Commissioner finds that the council failed to respond within 20 working days and breached section 10(1) of the FOIA.

Other Matters

16. Although they do not form part of this notice the Commissioner wishes to note the following matters of concern.

Internal Review

17. The code of practice issued under section 45 (the "code") of the FOIA sets out recommendations for best practice in the handling of requests¹.
18. In relation to internal reviews the code recommends that authorities should use a review to address any outstanding concerns raised by a requester. An internal review provides authorities with an opportunity to revisit a request, correct errors or oversights and, potentially, to negate the need for a complaint to the Commissioner.
19. In this case, the Commissioner considers that the council's review was unclear and failed to properly address the complainant's concerns. He considers that it is unlikely that the council's review conforms to the recommendations of the code.
20. The council should ensure that future reviews conform to the recommendations of the code.

1

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

Right of appeal

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: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

Christopher Williams
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF