

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 2 August 2010

Public Authority: London Borough of Hillingdon
Address: Civic Centre,
High Street,
Uxbridge,
Middlesex
UB8 1UW

Summary

On 3 September 2009 the complainant requested information from the London Borough of Hillingdon relating to the cost of providing accommodation and care for unaccompanied asylum seekers. The public authority provided some of the information requested on 15 March 2010, in excess of 6 months after the date of the initial request, but it refused to disclose the rest citing section 36 of the Freedom of Information Act. The Commissioner's has only considered the failure to respond within 20 working days and has not looked at the application of section 36 to the withheld information. His decision is that in failing to confirm or deny that it held information covered by the request and to provide an appropriate response to the complainant within the statutory time frame for compliance the London Borough of Hillingdon breached section 10(1) of the Act in failing to comply with section 1(1) within twenty working days.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 3 September 2009 the complainant contacted London Borough of Hillingdon to request the following information:

"Do you have an estimate of the cost of providing accommodation and care to unaccompanied asylum seekers who live within your authority for the 08/09 financial year? Please provide a breakdown of these costs if possible.

Please could you provide me with any exchange of correspondence your authority has had with any Government department about this cost falling on your authority's taxpayers. Limit this inquiry to letters or emails dated 1.1.08 to the date of this email"

3. The complainant did not receive a response and contacted the public authority on 21 October 2009 to ask for an update.

4. In an email dated 26 October 2009 the public authority stated the following:

"I can confirm that we are processing your request but we have had some delay in doing this due to an officer leaving the council. We will endeavour to respond as soon as we are able"

The Investigation

Scope of the case

5. On 8 December 2009 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that the public authority had failed to provide him with a substantive response since submitting his request on 3 September 2009. This notice does not address the subsequent application of section 36.

Chronology

6. On 24 December 2009 the Commissioner wrote to the public authority reminding it of its obligations under the Freedom of Information Act and asking it to respond to the complainant within 20 working days.

7. On 16 February 2010 the Commissioner wrote to the public authority again, requesting a response from the London Borough of Hillingdon within 10 working days. This letter stated that failure to respond would result in a Decision Notice being issued. The public authority failed to issue a response.
8. In a letter dated 15 March 2010 the London Borough of Hillingdon provided a full response to the complainant in which it provided him with some of the requested information but withheld the rest under section 36 of the Act. Due to the delays experienced in obtaining a response from the public authority, the Commissioner felt it appropriate to proceed to a Decision Notice addressing the failure to respond within the time for compliance.

Analysis

Procedural Requirements

Section 10

9. Section 10(1) of the Act states that:

"Subject to subsections (2) and (3), 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."

The Commissioner considers that the London Borough of Hillingdon has breached section 10(1) of the Act as it failed to respond to the request within twenty working days following the date of receipt.

The Decision

10. The London Borough of Hillingdon has breached section 10(1) of the Act in failing to failing to respond within twenty working days following receipt of the request.

Steps Required

11. The Commissioner requires no steps to be taken.

Right of Appeal

12. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 2nd day of August 2010

Signed

**David Smith
Deputy Commissioner**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Time for Compliance

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”

Section 10(2) provides that –

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

Section 10(3) provides that –

“If, and to the extent that –

- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

Section 10(4) provides that –

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

Section 10(5) provides that –

“Regulations under subsection (4) may –

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner."

Section 10(6) provides that –

"In this section –

"the date of receipt" means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

"working day" means any day other than a Saturday, a 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."