

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 24 August 2010

Public Authority: Wolverhampton City Council
Address: Civic Centre
St Peter's Square
Wolverhampton
West Midlands
WV1 1SH

Summary

The complainant requested information relating to the way in which Wolverhampton City Council (the "Council") had investigated a complaint concerning the authority's decision to withdraw funding from the Race Equality Partnership Wolverhampton. The Council did not respond to this request within the statutory time-limit and the Commissioner finds that, by its failure, the public authority did not comply with the requirements of section 10(1) of the Freedom of Information Act 2000.

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 10 August 2009 the complainant submitted the following information request to Wolverhampton City Council (the "Council"):

"As the Council now consider that the complaint has been fully addressed, can you please provide us with 'how the complaint was

investigated' in accordance with your policy and procedure as well as copies of the policy."

3. The complainant has informed the Commissioner that the Council failed to acknowledge and process the request.

The Investigation

Scope of the case

4. On 3 February 2010 the complainant contacted the Commissioner to complain about the failure of the Council to respond to his information request.
5. The Commissioner is aware that, during the course of his investigation, the Council did provide a response to the complainant. However, this notice deals with the Council's failure to respond initially and the associated breach of the Act arising from this.

Chronology

6. The Commissioner wrote to the Council on 23 February 2010 to advise it of the complaint received from the complainant. The Commissioner went on to ask that the Council clarify its position in regards to the request. As a response was not received, the Commissioner wrote to the Council again on 19 March 2010 requiring it to respond to the complainant within 10 working days.
7. In view of the continued failure of the Council to act on the Commissioner's instructions, the complainant wrote to the Council on 8 April 2010 to highlight that it had not yet provided a response to the information request.
8. The Council replied to the complainant the same day, stating that it was unaware that an information request had been made. The Council therefore offered to log the request and provide a full response once the complainant had confirmed what constituted the full scope of the request. The Commissioner understands that the complainant subsequently emailed a copy of the original request to the Council on 12 April 2010 and asked that the request was complied with.
9. The complainant emailed the Commissioner on 4 May 2010 to inform him of the continued failure of the Council to respond to the

information request. As a result, the Commissioner emailed the Council on 27 May 2010 to reiterate the need for it to provide a response.

10. On 14 July 2010 the Council informed the Commissioner that it had issued a response to the complainant. The complainant has subsequently asked the Council, by correspondence dated 19 July 2010, to carry out an internal review of its response.

Analysis

Procedural Matters

11. Section 1(1) of the Act requires that a public authority should respond to a request for information by either confirming whether or not the information is held and disclosing any information that is held; or citing exemptions from the requirement to confirm or deny whether the information requested is held, or from the requirements to disclose information.
12. Section 10(1) requires that such a response must be provided within 20 working days of receipt of the request.
13. The Commissioner considers that, by failing to respond to the complainant's information request of 10 August 2009 within 20 working days, the Council breached the requirement of section 10(1) of the Act.

The Decision

14. The Commissioner's decision is that the Council did not comply with section 10(1) of the Act because of its failure to respond to the complainant's information request within the statutory time-limit.

Steps Required

15. The Commissioner requires no steps to be taken.

Other matters

16. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:

In investigating section 50 complaints the Commissioner is generally reliant upon the cooperation of public authorities in this process. Where public authorities fail to engage with the Commissioner's investigation or fail to act upon the Commissioner's advice, particularly in cases where a complaint relates to a failure to respond to a request for information, this can result in further delays in requesters gaining access to information to which they might be entitled. Such actions do not conform to the spirit of or the letter of the Act and the Council should ensure that, in future, it provides the Commissioner with an appropriate and prompt response to his enquiries.

Right of Appeal

17. 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 sent.

Dated the 24th day of August 2010

Signed

**Rachael Cragg
Group Manager Complaints Resolution**

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

Legal Annex

General right of access

Section 1(1) provides 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.”

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.”

Refusal of a request

Section 17(1) provides that –

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –

- (a) states the fact,
- (b) specifies the exemption in question, and
- (c) states (if that would not otherwise be apparent) why the exemption applies.”