

Freedom of Information Act 2000 (Section 50) *Environmental Information Regulations 2004*

Decision Notice

Date: 20 September 2010

Public Authority: Knowsley Metropolitan Borough Council

Address: PO Box 21
Archway Road
Knowsley
L36 9YU

Summary

The complainant submitted requests for information relating to a housing grant and loan scheme in North Huyton. The Council failed to provide a response to one of the requests. The Commissioner's decision is that Knowsley Metropolitan Borough Council ('the Council') breached section 10(1) of the Act. The Commissioner requires the Council to provide a response compliant with the Act to the complainant within 35 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.

Background

2. On 7 July 2009, the complainant wrote to the Council and quoted the following extract from a story that had appeared in local newspapers:
"If you own a home in the Stockbridge, Longview or Page Moss wards in North Huyton you may be entitled to a housing grant and loan"

The complainant submitted the following requests for information in relation to the news story:

- 1) Can you tell me if the above statement is true?
 - 2) How many people from the Longview estate have applied?
 - 3) How many applications have not yet had a final decision from Knowsley Council?
 - 4) Does Knowsley Council have discretion to award grants applications they deem appropriate to the Housing Assistance Policy 2006?
3. The Council acknowledged this request on 8 July 2009 and provided a substantive response to the complainant on 4 August 2009. This response stated that:
- 1) Homeowners in the North Huyton New Deal for Communities (NDC) area may be entitled a housing grant or loan from the Council. However, the NDC area does not completely cover the Stockbridge, Longview and Page Moss wards and so the news story contained an error.
 - 2) 960 enquiry forms were distributed to applicable addresses in the Priority Area for Assistance scheme. 460 of these forms were returned, and 105 were now being processed for housing assistance. The Council explained that to compare addresses on these 105 forms to the electoral roll for the Longview ward would exceed the appropriate limit of 18 hours.
 - 3) The Council explained that as 500 forms had not been returned, it "may be viewed" that 500 households had not received a final response.
 - 4) The Council explained that it could authorise applications for housing assistance, but only if the application met criteria defined as "Exceptional Circumstances" in its Housing Assistance Policy 2006. The Council provided the text of the section on "Exceptional Circumstances" from this policy.

The Request

4. On 4 August 2009, the complainant wrote to the Council and submitted the following requests for information:
 - 1) Could you confirm that a mistake was made, and the above article is not true? Was an apology or correction printed in the Echo or Challenge?
 - 2) Could you confirm that the answer to this question is, yes, where it is "considered" exceptional?
 - 3) The Echo and Knowsley Challenge stated that KMBC have funds of £5 million for this scheme. As only 105 applicants have been processed and this was the state of applications in March 2009, and from your comments here, that has not changed and it is now August 2009, what will happen to the remaining £4.47 million or whatever is left?
5. On 24 August 2009, the complainant wrote to the Council enquiring when he might receive a response to these requests.

The Investigation

Scope of the case

6. On 13 January 2010 the complainant contacted the Commissioner to complain about the way his request for information of 4 August had been handled.

Chronology

7. On 26 January 2010, the Commissioner wrote to the Council to ask that it provide a response to the complainant within ten working days.
8. On 13 February 2010, the complainant contacted the Commissioner and stated that he had received no further response from the Council.
9. On 7 April 2010, the Commissioner telephoned the Council to outline the complaint. He asked that a response to the complainant's requests for information was sent to both the complainant and the Commissioner by 5 May 2010. The Commissioner wrote to the Council to reiterate this.

10. On 5 May and 10 May 2010, the Commissioner wrote to the Council to enquire when it expected to send its response to the complainant's requests.
11. The Commissioner telephoned the Council on 13 and 18 May 2010 to enquire why a response had not been provided. The appropriate Council officer was not available on either occasion. The Commissioner also wrote to the Council about its failure to respond on 18 May 2010.
12. On 19 May 2010, the Commissioner telephoned the Council twice and was able to speak to the appropriate Council employee on the second telephone call. The member of staff stated that an update on the complaint would be provided by the following day, i.e. by 20 May 2010. The Council confirmed this in an email.
13. On 20 May 2010, the Commissioner telephoned the Council to enquire why it had not provided any further response. The Council stated that a response would be provided imminently.
14. On 24 May 2010, the Commissioner telephoned the Council to discuss its failure to respond. The appropriate Council officer was not available.
15. On 25 May 2010, the Commissioner wrote to the Council about the lack of response. The Council telephoned the Commissioner to discuss the case. The Commissioner agreed that a final deadline of 4 June 2010 could be set for the Council's response to the complainant. The Commissioner reiterated this in an email to the Council.
16. On 4 June 2010, the Commissioner telephoned the Council to enquire when it anticipated sending its response. The appropriate Council officer was unavailable to discuss the matter.
17. On 7 June 2010, the Commissioner wrote to the Council to enquire when a response would be sent, and telephoned several times to discuss the same matter. The Council assured the Commissioner that a response would be sent imminently.
18. On 16 June 2010 the Commissioner wrote to the Council to remind it that it still needed to respond to the request.
19. On 2 August 2010 the Commissioner again wrote to the Council to ask that it provided a response to the request.

Analysis

Substantive Procedural Matters

Section 10

20. Section 10(1) provides that a public authority must comply with section 1(1) within 20 working days following the date of receipt.
21. The complainant submitted his supplementary requests for information to the Council on 4 August 2009. The Council has not provided a response. Consequently, the Commissioner finds that the Council has breached section 10(1).

The Decision

22. The Commissioner's decision is that Knowsley Metropolitan Borough has breached section 10(1) of the Act.

Steps Required

23. The Commissioner requires the Council to respond to the complainant's request in accordance with section 1(1)(a) of the Act by informing the complainant whether it holds the information, or issuing a refusal notice explaining why it is excluded from the section 1(1)(a) duty to confirm or deny if information is held. If the exclusion from the duty to confirm or deny does not apply, and the information is held, then the Council should respond to the complainant's request in accordance with section 1(1)(b) by either communicating the information to him or issuing a valid refusal notice. Any refusal notice issued should comply with the requirements of section 17.
24. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Right of Appeal

25. 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 20th day of September 2010

Signed

**Andrew White
Complaints Resolution Group Manager
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."