

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 10 May 2011

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

Summary

On 17 September 2010 the complainant requested information from Bolton Council (the Council) relating to parking appeals and a named member of staff. The Council provided a response on 20 October 2010, 23 days after the request was submitted. The Commissioner finds that Bolton Council failed to provide an appropriate response to the complainant within the statutory time frame for compliance and has breached section 10(1) of the Act in failing to comply with section 1(1) within twenty working days. He does not require any further action to be taken.

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 17 September 2010 the complainant contacted Bolton Council to request the following information:

"1. Provide details of the 3 appeal Cases which Mr Molyneux said went against appellants on their appeals regarding the Permit Bay

in Queen st.

2. Provide details of any appeals decisions which went against Bolton Council defending the appeals regarding the Permit Bay in Queen st.

3. Provide details of Mr Molyneux's Salary for 2008/9

4. Provide the Name of the Local Authority Mr Molyneux is taking employment with after he leaves Bolton Council on 15th October 2010"

3. Bolton Council responded in a letter dated 20 October 2010 in which it provided all of the requested information.
4. The complainant did not request an internal review.

The Investigation

Scope of the case

5. On 16 October 2010 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 to his request within 20 working days.

Chronology

6. In an email dated 24 November 2010 the Commissioner wrote to the Council to inform it of a complaint being received.
7. The Council replied to the Commissioner on the same day acknowledging the complaint and informing the Commissioner that it had responded 3 days late.

Analysis

Procedural Requirements

Section 10

8. 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."

9. The dates referenced in paragraphs 2 and 3 shows that the Council took 23 working days to respond to the request.
10. The Commissioner considers that Bolton Council 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

11. Bolton Council 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

12. The Commissioner requires no steps to be taken.

Right of Appeal

13. 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 10th day of May 2011

Signed

**Andrew White
Group Manager, Complaints Resolution**

**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.”