

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 18 August 2011

**Public Authority:** The Royal Borough of Kingston upon Thames  
**Address:** Guildhall  
High Street  
Kingston upon Thames  
KT1 1EU

### Summary

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The complainant submitted a request for information to the Royal Borough of Kingston upon Thames ('the Council'). The Council failed to respond within the statutory time for compliance. Consequently the Commissioner finds a breach of section 10(1) of the Act. He does not require the Council to take any further action.

### The Commissioner's Role

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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

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2. On 31 October 2010 the complainants wrote to the Council. Included within this letter were several requests for information. One of these requests was identified as a Subject Access Request. The others were requests under the Freedom of Information Act for:
  - o *"full written details of your 'data sharing arrangements' with your Contractors and Agents, specifically the rights of and your responsibilities to your residents under such arrangements and*

*where we are advised of this practice occurring without providing our explicit consent*

- *the total number of incidents reported to Kingston Borough Council, since 1 January 2005, involving damage to property or persons from lawnmowers operated by the Council and their Agents*
  - *the outcome of these incidents, specifically the actions recommended, and subsequently put in place by Kingston Borough Council, to prevent them happening again*
  - *full written evidence of the Council's procedure in carrying out 6-monthly inspections of the Leyfield road and verges*
  - *dated, written evidence that a statutory inspection was carried out on 30<sup>th</sup> March 2010, including full details of [name redacted]'s correspondence to [name redacted]"*.
3. The Council acknowledged these requests on 15 November 2010. On 2 December 2010 the Council responded to the other matters raised in the complainants' request of 31 October 2010. However, no response was provided regarding their requests for information.
4. Following the intervention of the Commissioner, the Council responded to the complainants on 2 March 2011.

## **The Investigation**

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### **Scope of the case**

5. On 4 January 2011 the complainant contacted the Commissioner to complain about the Council's failure to respond to their request.
6. The complainants have requested an internal review of the Council's response. However, this Decision Notice focuses solely on the time taken to respond to the complainants' request.

### **Chronology**

7. On 16 February 2011 the Commissioner wrote to the Council to ask that it respond to this request.

## Analysis

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### Substantive Procedural Matters

#### Section 10

8. Section 1(1)(a) of the Act requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
9. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than twenty working days after the date of receipt of the request.
10. The complainants submitted their request for information on 31 October 2010. The Council did not issue a substantive response until 2 March 2011, after the intervention of the Commissioner. The Commissioner therefore finds the Council in breach of section 10(1) of the Act as it failed to provide either the requested information or a valid refusal notice within the statutory time limit.

#### The Decision

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11. The Commissioner's decision is that the Council breached section 10(1) of the Act by failing to respond to this request within the statutory time for compliance.

#### Steps Required

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12. The Commissioner does not require the Council to take any further action.

## Right of Appeal

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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](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://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 18<sup>th</sup> day of August 2011**

**Signed .....**

**Jon Manners  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## **Legal Annex**

### ***Section 1 – General right of access to information***

- 1- (1) 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

### ***Section 10 – Time for compliance with a request***

- 10- (1) 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