

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 11 July 2011

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

Summary

On 19 December 2010, the complainant requested information from Bolton Council (the council) relating to postal penalty charge notices (PCN's). The council provided a response on 2 February 2011, 29 working 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 Freedom of Information 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 19 December 2010, the complainant contacted the council to request the following information:

Please provide the following information in respect of Code 02 postal penalty charge notices issued by the council on which the contravention was wrongly and incompletely stated as "02, Loading

Restrictions".

- 1. On what date was the first such invalid PCN issued?*
 - 2. On what date did the council first become aware of the erroneous statement of contravention on such PCNs?*
 - 3. On what date did the council cease to issue such invalid PCNs?*
 - 4. Between the dates (1) and (3) how many such invalid PCNs were issued?*
 - 5. Between the dates (1) and (3) how many such invalid PCNs have been cancelled*
 - 6. Between the dates (1) and (2) how many such invalid PCNs were issued?*
 - 7. Between the dates (1) and (2) how many such invalid PCNs have been cancelled?*
 - 8. How many of all such erroneously-worded paid PCNs have been refunded to the payers?*
 - 9. What is the total sum of penalty payments received by the council in respect of these invalid Code 02 PCNs?*
 - 10. When will all of such invalid PCNs that are currently un-refunded be refunded to the payers?*
 - 11. Have any PCNs other than postal Code 02 PCNs been issued by the council that have not shown correctly and in full the statement of contravention prescribed by the Regulations? If so please provide details.*
3. The council responded in a letter dated 2 February 2011 in which it provided some of the requested information. The council refused to respond to parts 1, 4, 5, 6, 7, 9, and 10 on the basis that it did not accept that the postal PCN's were invalid.
 4. The complainant requested an internal review on 3 February 2011.
 5. The council contacted the complainant on 3 February 2011 and asked the complainant if he wished for any further arguments to be taken into consideration.
 6. The complainant contacted the council on 4 February 2011 in which he stated the following:

With reference to my request Reference RFI 393 and with reference to all penalty charge notices issued by Bolton Council on which the alleged contravention was stated as "02, Loading Restrictions":

- 1. On what date was the first such PCN issued and on what date was it discontinued?*
- 2. How many such PCNs were issued?*
- 3. How many such PCNs have been cancelled?*
- 4. What is the total sum of penalty payments received by the council in respect of these PCNs?*
- 5. When will all of the penalties paid in respect of these PCNs be refunded to the payers?*
- 6. How many of the penalties paid in respect of these PCNs have been refunded to date?*
7. The council provided the complainant with the outcome of its internal review on 3 March 2011 in which it provided the complainant with all of the information he requested in his letter of 4 February 2011.

The Investigation

Scope of the case

8. On 21 January 2011, the complainant contacted the Commissioner to complain about the way his initial 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

9. In a letter dated 2 March 2011 the Commissioner wrote to the council to inform it of a complaint being received.
10. The complainant contacted the Commissioner on 3 March 2011 requesting that a Decision Notice was issued.
11. The Commissioner telephone the council on 3 March 2011 to inform it that a Decision Notice would be issued.

Analysis

Procedural Requirements

Section 10

12. 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."

13. The dates referenced in paragraphs 2 and 3 shows that the council took 29 working days to respond to the request.

14. The Commissioner considers that the 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

15. 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

16. The Commissioner requires no steps to be taken.

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: 0300 1234504

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 11th day of July 2011

Signed

Andrew White

Group Manager

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.”