

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 23 August 2011

Public Authority: London Borough of Hammersmith and Fulham
Address: Town Hall
King Street
Hammersmith
London
W6 9JU

Summary

The complainant asked London Borough of Hammersmith and Fulham (the "public authority") to provide information relating to its online payment system. The public authority failed to respond to the request within the time limit set out at section 10(1) of the Act. However, as it has now responded the Commissioner requires no steps 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 16 January 2011 the complainant made the following information request:

"I would like to request for any reports, consultation documents, minutes of meetings and business case data related to the Council's online payment system (the online payment system is the electronic system where the members of the public use this system to pay their council tax)".

3. This was acknowledged by the public authority on 18 January 2011.
4. On 14 February 2011 the public authority advised the complainant that it was still dealing with his request and was considering the public interest under the exemptions in sections 43 and 31 of the Act. It advised that it would respond by 11 March 2011.
5. On 17 March 2011 the public authority wrote to the complainant advising that it was unable to respond as it was dealing with staffing problems. It said it would respond by 24 March 2011.

The investigation

Scope of the case

6. On 18 March 2011 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 lack of response.
7. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.

Chronology

8. The Commissioner wrote to the public authority on 4 April 2011 and asked it to respond within 20 working days. He advised the complainant accordingly.
9. On 9 May 2011 the complainant wrote to the Commissioner again to advise that he had still not received a response.
10. On 17 May 2011 the Commissioner again wrote to the public authority.
11. On 3 June 2011 the public authority sent its response to the complainant.

Analysis

Substantive procedural matters

Section 10(1): Time for compliance

12. 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.
13. 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.
14. The Commissioner notes that the public authority initially sought to extend the time in which to provide a response by stating that it was considering the public interest in the exemptions at sections 43 and 31 of the Act. It also provided a time estimate in which it intended to respond, which is something it is entitled to do by virtue of section 17(2). However, it then failed to adhere to its own estimate.
15. The Commissioner therefore finds the public authority breached 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

16. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act in the following respect:
 - in failing to comply with the statutory time for response it breached section 10(1).

Steps required

17. As the public authority has now responded to the request, albeit only as a result of the Commissioner's intervention, the Commissioner requires no further steps to be taken.

Other matters

18. The Commissioner's Enforcement Team has been made aware of the time delays in this case.

Right of Appeal

19. 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@hmcts.gsi.gov.uk.

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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 23rd 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

- (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

- (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.

Section 17 – refusal of request

- (2) Where–
- (a) in relation to any request for information, a public authority is, as respects any information, relying on a claim-
 - (i) that any provision of part II which relates to the duty to confirm or deny and is not specified in section 2(3) is relevant to the request, or
 - (ii) that the information is exempt information only by virtue of a provision not specified in section 2(3), and
 - (b) at the time when the notice under subsection (1) is given to the applicant, the public authority (or, in a case falling within section 66(3) or (4), the responsible authority) has not yet reached a decision as to the application of subsection (1)(b) or (2)(b) of section 2,
- the notice under subsection (1) must indicate that no decision as to the application of that provision has yet been reached and must contain an estimate of the date by which the authority expects that such a decision will have been reached.