

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 February 2012

Public Authority: British Waterways
Address: 64 Clarendon Road
Watford
Herts
WD17 1DA

Decision (including any steps ordered)

1. The complainant has requested some information about British Waterways previous Business Plans. He received no appropriate response to this part of his request.
2. The Commissioner gave British Waterways a number of opportunities to issue an appropriate response and it failed to do so.
3. The Commissioner's decision is that British Waterways has breached the requirements of section 1(1) of FOIA in not issuing an appropriate response. It has also breached section 10(1) of FOIA because it has not complied with section 1(1) within 20 working days.
4. The Commissioner requires British Waterways to take the following steps to ensure compliance with the legislation:
 - Confirm or deny whether it holds relevant recorded information for each remaining part of the request;
 - Either disclose all the information, or disclose the non-exempt information and explain for each piece of withheld information which exemption it is applying and why it considers that it applies. Should it apply an exemption with a public interest component – it should explain the factors that it has taken into account and why the public interest favours the maintenance of the exemptions in all the circumstances of the case.
5. It should undertake these steps on the What Do They Know website as requested by the complainant.

6. British Waterways must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the FOIA and may be dealt with as a contempt of court.

Request and response

7. On 10 August 2011 the complainant made a number of requests for information including:

'Please also provide via whatdotheyknow.com copies of all previous plans (corporate or business) approved by the board during the last ten years.'

8. British Waterways answered some of the other parts of the request, but did not deal with this one.
9. Despite the Commissioner issuing a number of reminders, no further response was received by the date of this Notice.

Scope of the case

10. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
11. He agreed that the Commissioner would issue a decision notice to compel British Waterways to issue an appropriate response.

Reasons for decision

12. Section 1(1) of FOIA imposes obligations on public authorities to answer requests for information that they have received. It states:

'Any person making a request for information to the 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.'*

13. However there are various exemptions in FOIA that allow the public authority to be excluded from these obligations in certain circumstances.
14. As British Waterways has not issued a response it has not complied with section 1(1) of FOIA.
15. FOIA also has a number of procedural provisions that are designed to enable a complainant to receive an appropriate response (that can be understood) in good time.

Section 10(1)

16. Section 10(1) of FOIA requires that a public authority complies with section 1(1) promptly and in 20 working days at the latest.
17. British Waterways failed to issue any response within 20 working days and therefore breached section 10(1).

Right of appeal

18. 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,
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

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed

Pamela Clements
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