

Freedom of Information Act 2000 (FOIA)

Date: 26 January 2012

Public Authority: London Borough of Bexley
Address: Civic Offices
Broadway
Bexleyheath
Kent
DA6 7LB

Decision (including any steps ordered)

1. The complainant requested evidence of whether a particular internet blog had been viewed on any IT system belonging to the London Borough of Bexley (the "Council").
2. The Council has failed to provide a substantive response to the request in breach of section 10(1) of FOIA.
3. The Commissioner requires the public authority either to comply with the requirements of section 1 of FOIA or to issue a valid refusal notice in accordance with section 17.
4. The public authority must take this step 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 2 June 2011 the complainant made an information request to the Council, the relevant extract of which follows:

"It has come to my attention that there is currently a blog on the Internet that would probably be deemed offensive and would certainly be inappropriate to view in the workplace..."

From the specifics of the site content it would appear there is evidence that information could only have been sourced from a Bexley Councillor or a Bexley Council employee as no-one bar these, or perhaps acquaintances thereof, would have been privy to the events described. To put my mind at rest that there has not been an abuse of the Council's Diversity and/or IT usage policies I would be most grateful if you could inform me by return – as I am aware that this is very easy to establish – if this site has been viewed on or through any Bexley Council IT system since its apparent inception on 21st May 2011."

6. The Council wrote to the complainant on 10 June to inform him that, given the gravity of the allegations he had made about the internet blog, it had been considered appropriate to refer this matter to an external body for consideration.
7. Following the receipt of subsequent emails from the complainant reminding it of its failure to act on his request, the Council confirmed on 12 September 2011 that it would process the request under the provisions of FOIA and respond accordingly.

Scope of the case

8. The complainant contacted the Commissioner to complain about the Council's failure to respond to his request.

Reasons for decision

9. Section 1 of FOIA provides that, unless subject to an exemption or exclusion contained in FOIA, a public authority in receipt of a request must confirm whether it holds information of the description specified and, if so, to communicate that information to the applicant. Section 10(1) requires a response to be provided within 20 working days.
10. The complainant's request was submitted on 2 June 2011. At the date of this notice the complainant had not received a formal response under FOIA to his request. The Commissioner has therefore found that the Council breached section 10(1) of FOIA.

Right of appeal

11. 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

12. 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.
13. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF