

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 January 2013

Public Authority: London Borough of Hounslow
Address: The Civic Centre
Lampton Road
Hounslow
Middlesex
TW3 4DN

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Hounslow ("the council") regarding council plans to deal with the problem of dwellings in gardens. The council withheld the information using section 36 of the Freedom of Information Act 2000 ("the FOIA"), the exemption relating to prejudice to the effective conduct of public affairs. However during the Commissioner's investigation the council decided that it was able to disclose the information because of the passage of time.
2. The Commissioner's decision is that the council breached section 10(1) of the FOIA because of the late response.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 28 February 2012, the complainant requested information in the following terms:

"Sheds with beds At the last Audit Committee (13 Feb 2012) it was reported that a paper to detail a corporate approach to the problem of dwellings constructed in gardens, commonly called 'sheds with beds', has been presented to the Council's Leadership Team. I would like a copy of this document".

5. The council responded on 24 April 2012. It said that it considered that the information was exempt in accordance with sections 36(2)(b) and (c) of the FOIA. The council said that the public interest favoured maintaining the exemption.
6. The complainant requested an internal review on 8 May 2012 because he did not consider that the exemption was engaged.
7. The council completed its internal review on 5 July 2012. It said that it wished to maintain its position.

Scope of the case

8. On 2 August 2012, the complainant contacted the Commissioner to complain about the way his request had been handled. He specifically asked the Commissioner to consider the following issues:
 - Whether the council had correctly withheld the information
 - The delays encountered in respect of the initial response and the internal review
9. This notice does not include an analysis of whether or not the information was correctly withheld using an exemption because the information has now been disclosed, thereby informally resolving that issue.
10. For clarity, there is currently no statutory time frame for completing an internal review. However, the Commissioner has made comments about this in the Other Matters section of the notice.

Reasons for decision

11. Section 10 of the FOIA provides that a public authority should respond to a request for information within 20 working days. The Commissioner has found a breach in this case because the council did not respond within 20 working days.

Other Matters

Internal reviews

12. The Code of Practice under section 45 of the FOIA provides that internal reviews should be undertaken "promptly". The Commissioner's guidance

is that internal reviews should generally not take longer than 20 working days. He trusts that the council will make improvements in this regard in the future.

Right of appeal

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,
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

14. 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.
15. 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
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