

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 3 January 2013

Public Authority: Royal Borough of Greenwich
Address: The Woolwich Centre
35 Wellington Street
London
SE18 6HQ

Decision (including any steps ordered)

1. The complainant requested information about objections relating to the planning process. The Royal Borough of Greenwich (the 'Council') did not respond to the request until 61 working days after receiving it. The complainant requested that a decision notice be issued by the Information Commissioner recording the delay.
2. The Information Commissioner's decision is that the Council has breached section 10(1) of FOIA by issuing its response late but, as a substantive response has been provided to the complainant, he does not require any remedial steps to be taken.

Request and response

3. On 29 September 2011, the complainant wrote to the Council and requested information in the following terms:

"I was very concerned to learn in recent weeks that within the planning process only one objection per household is counted. This seems to contradict the democratic principle of one person, one vote.

Therefore, I should like the following information, please under the Freedom of Information provisions.

- 1) *When was this condition of one objection per household imposed?*
- 2) *What is the definition of a household for the purposes of the planning process?*

3) *Who imposed this condition? Central Government or LBG?*

4) *Is this condition a guideline which can be set aside?*

5) *Is this condition a matter of legislation? If so, which Act/Clause/Paragraph covers it?*

I trust you can supply the information I require."

4. The Council responded on 22 December 2011. Although its response made reference to an email it had subsequently received from the complainant on 7 December 2011, in which the complainant had chased the Council for a response to her earlier correspondence, it did not refer to FOIA or offer the complainant the right to an internal review.
5. The complainant did, however, request an internal review on 11 January 2012. The Council did not provide its response until 27 April 2012, after the Information Commissioner's involvement, and provided the requested clarification.

Scope of the case

6. The complainant initially contacted the Commissioner on 24 February 2012 (received 27 February 2012) to complain about the way her request for information had been handled. She specifically asked the Commissioner to consider the Council's handling of her request and its lack of response to her request for an internal review. The latter is covered in the 'Other matters' section of this notice.
7. The Commissioner wrote to the Council on 2 April 2012, advising that the complainant had expressed dissatisfaction with the Council's response to the request, and reminding it of the need to respond to the request for internal review.
8. The Commissioner also wrote to the complainant on 2 April 2012 to advise her that it had asked the Council to respond within 20 working days with the outcome of the internal review, and that she should contact him further should she receive no response.
9. Having received the internal review result on 27 April 2012, with which she was still dissatisfied, the complainant contacted the Commissioner again on 11 May 2012. Following a further exchange of correspondence, the complainant requested that the Commissioner issue a decision notice to record the delay in handling her request and internal review.

10. The scope of the Commissioner's investigation was therefore to consider whether there had been a breach of section 10(1) by the Council in its handling of the complainant's request.
11. The Commissioner has considered the Council's handling of the internal review in the 'Other matters' section.

Reasons for decision

12. Section 10(1) of the FOIA provides:

"...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 Commissioner notes that the Council provided a response on 22 December 2012, which is a timescale of 61 working days and well over the 20 working days allowed.
14. The Commissioner does not need to serve a decision notice in an individual case in order to use that case as evidence for future enforcement action; however, should a complainant request the Commissioner to issue a decision notice for a specific complaint he will do so.
15. The Commissioner has therefore recorded a breach of section 10(1) of FOIA and has ensured that the details of the case have been recorded for future monitoring purposes. He would remind the Council of the need to recognise requests under FOIA and deal with them accordingly.

Other matters

16. Part VI of the section 45 Code of Practice makes it desirable practice that a public authority should have a procedure in place for dealing with complaints about its handling of requests for information, and that the procedure should encourage a prompt determination of the complaint. As he has made clear in his 'Good Practice Guidance No 5', the Commissioner considers that these internal reviews should be completed as promptly as possible. While no explicit timescale is laid down by FOIA, the Commissioner has decided that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days. The Commissioner is concerned that in this case, it took over 85

working days for an internal review to be completed, despite the publication of his guidance on the matter, and that this review was only completed following his intervention.

17. Any written reply from the applicant (including one transmitted by electronic means) expressing dissatisfaction with an authority's response to a request for information should be treated as a complaint, as should any written communication from a person who considers that the authority is not complying with its publication scheme. These communications should be handled in accordance with the authority's complaints procedure, even if, in the case of a request for information under the general rights of access, the applicant does not expressly state his or her desire for the authority to review its decision or its handling of the application.

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

Andrew White
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