

Freedom of Information Act 2000

Decision notice

Date: 21 August 2013

Public Authority: London Borough of Hackney
Address: Town Hall
Mare Street
London
E8 1EA

Decision (including any steps ordered)

1. The complainant requested information about homeless individuals in the London Borough of Hackney. The Commissioner's decision is that the London Borough of Hackney has breached sections 1 and 10 of the Freedom of Information Act 2000 (the Act) as it has not provided a response to the complainant.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a response to the complainant.
3. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

4. On 17 February 2013, the complainant wrote to the London Borough of Hackney and requested information in the following terms:

How many families with one or more disabled members do you have on your homeless register? How many one and two bedroom properties are available? How many people do you have waiting

for these? How many one and two bedroom properties that are available are wheelchair accessible?

5. To date the London Borough of Hackney has not provided the complainant with a response to this request which meets its obligations under the terms of the Act.
6. The complainant has written on 3 and 10 May 2013 to the London Borough of Hackney to complain at the lack of response. The Commissioner considers that this should be interpreted by the London Borough of Hackney as an opportunity to review its handling of the case. Whilst the complainant does not specifically ask for an internal review, the section 45 Codes of Practice state that:

"[Written communications expressing dissatisfaction with the an authority's response to a request] 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."

Scope of the case

7. The complainant contacted the Commissioner on 7 June 2013 to complain about the way her request for information had been handled.
8. The Commissioner considers the scope of the case to be whether the London Borough of Hackney has responded to the complainant within the stipulated time limit.

Reasons for decision

9. Section 1 of the Act states that an individual who asks for information is entitled to be informed whether the information is held, and – providing no exemptions apply – if the information is held to have the information communicated to them.
10. Section 10 of the Act states that a public authority must respond to a request promptly or "not later than the twentieth working day following the date of receipt".
11. The complainant sent her request electronically on 17 February 2013 and received an acknowledgement receipt from the London Borough of Hackney on the same day.

12. The twentieth working day after 17 February 2013 is 15 March 2013. As the London Borough of Hackney did not provide a response within this time limit it has breached section 10 of the Act.
13. After being prompted from the Commissioner the London Borough of Hackney did provide a response to the request on 26 June 2013. However, the response was not addressed to complainant but to a separate individual. So whilst the London Borough of Hackney has issued a response, it has not complied with the terms of the Act as this response was not sent to the complainant.
14. Therefore the Commissioner's decision is that the London Borough of Hackney has breached both sections 1 and 10 of the Act. He requires the London Borough of Hackney to issue a response to the complainant promptly. The Commissioner would also ask the London Borough of Hackney to take greater care when issuing its responses in future, as sending responses to the wrong address can lead to data breaches with significant consequences.

Right of appeal

15. 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

16. 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.
17. 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

Alexander Ganotis
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF