

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 September 2014

Public Authority: The London Borough of Hackney

Address: Hackney Town Hall

Mare Street

E8 1EA

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Hackney ("the Council") regarding her property.
2. The Commissioner's decision is that the Council has provided the complainant with all the recorded information that falls within the scope of her request. However, it has breached section 10 of FOIA as it failed to provide a full response within 20 working days.
3. As a full response has now been provided, the Commissioner requires the Council to take no steps.

Request and response

4. Over a period of time the complainant made a number of requests to the Council namely seeking information on her property.
5. The Council responded to the requests individually and provided the complainant with information that fell within the scope of the requests.

Scope of the case

6. The Commissioner accepted a complaint from the complainant on 4 April 2014. The complainant specifically complained that she had not received all the information that fell within the scope of a number of requests.

7. The Commissioner subsequently contacted the Council to investigate the complaint. It consequently provided the complainant with further information on 17 June 2014.
8. The complainant returned to the Commissioner on 9 July 2014 and expressed dissatisfaction. In her email the complainant specified a list of requests she believed remained outstanding. These are detailed in Annex A.
9. The Commissioner explained to the complainant that his investigation will be limited to the requests detailed in Annex A. The complainant did not dispute this.
10. The Commissioner has therefore had to consider whether the Council holds further information within the scope of the requests set out in Annex A.
11. It is important to note that the Commissioner has carefully considered all submissions made in relation to this case. However not all are referenced within this notice.

Reasons for decision

12. Section 1 of FOIA states that

"Any person making a request for information to a 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. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
14. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
15. The Commissioner wrote to the Council on 23 July 2014. In his letter, the Commissioner detailed the requests set out in Annex A. He specifically asked the Council to confirm whether information within the

scope of the requests was held and if so, whether it had been disclosed to the complainant. He further asked the Council to confirm whether it had withheld any information. Additionally, in the instance that the information was not held, the Commissioner asked the Council to detail the searches it undertook to locate the requested information and why these would have been likely to retrieve the relevant information.

16. The Council provided its response to the Commissioner on 6 August 2014. In its response it detailed the information that it held and listed the information that had been provided to the complainant. It also explained that it had located further information and it intended to provide this to the complainant. It further explained that one of the requests appeared to be a new request. This is the last request set out in Annex A. It explained that it would set this up as a new request and respond to the complainant accordingly.
17. After receipt of the further information from the Council, the complainant contacted the Commissioner on 12 August 2014. She explained that although she had received additional information, she argued that some information that fell within the scope of her request was still outstanding.
18. The Commissioner subsequently returned to the Council in order to be satisfied that on the balance of probabilities no further information was held.
19. The Council confirmed that in relation to the emails the complainant was seeking, it had carried out a search of its EAS system. It explained that this system only enables a search of archived emails and not personal drives. Consequently, it confirmed that it had contacted a number of people who may have dealt with the complainant. The Council provided evidence that it had contacted these individuals and that no further emails or information was held.
20. In relation to a report the complainant believed remained outstanding, the Council explained:

"A structural engineer had already attended and had produced a report, a copy of which [the complainant] has in her possession. The visit by [names] was to provide drawings and a specification based on the recommendations of the structural engineer and their visual inspection. [the complainant] has been provided with a copy of the drawings and specification following this visit".
21. It explained that it had contacted the NPS group who confirmed that "no such reports were completed". The Council confirmed that the

information that had been produced had been provided to the complainant.

22. It subsequently confirmed that it had provided the complainant with all information within the scope of the requests and that no further information was held.
23. The Commissioner considers from the evidence he has seen and on the balance of probabilities, that the complainant has now received all recorded information that falls within the scope of her requests.

Section 10 – Time Compliance

24. Section 10 of the Act states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
25. Although the Commissioner has not been provided with the dates of the original requests, it is evident that the Council did not provide the complainant with all the recorded information it held within the scope of her requests within 20 working days. This is because further information was disclosed to the complainant during the Commissioner's investigation.
26. The Commissioner's decision is that the Council did not deal with the request for information in accordance with the FOIA. It has breached section 10(1) of the FOIA by failing to provide a substantive response to the request within the statutory timeframe of 20 working days.
27. As a full response has now been provided to the complainant, the Commissioner requires the Council to take no steps.

Right of appeal

28. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

29. 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.
30. 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

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

Annex A

I can see that [name] on 10th Nov 2011 said she had sent lots of e-mails to you. On 9th Nov 2011 you ask [name] and [name] to give you information about my property as you had now taken over the file/case. Emails between yourself, [name]. In addition to information on my property. Therefore I request you provide me with the following:

- 1. All reports you have in your possession (apart from the one you have already given me last week), done on my property the block that was sent to you by anyone that you have either commissioned to carry out a survey or on your behalf. Including any specification works.*
- 2. All the letters /e-mails you have sent out regarding my property and block about anything that you have requested. For example, access to my property, dis-repairs and anything else.*
- 3. All the information you currently hold on my property address/ and block that you current hold on your system.*
- 4. Information that was given to you by the above people that would affect any decision/actions you may have decided to take because of their correspondence with you.*
- 5. A list of the dis-repairs and any other complaints you received”.*

16th Feb 2011, Structural/damp reports made by [name] and [name] with [name] in attendance.

21st Dec 2010 structural reports made.

I would like all the information that [name] has on my property included e-mails/correspondence he sent out regarding his time spent on my property.

I would like to know if any major works were uncovered and if so what they were and who was notified and what action if any were requested