

Freedom of Information Act 2000
Environmental Information Regulations 2004
Decision notice

Date: 2 March 2018

Public Authority: Royal Borough of Kensington & Chelsea
Address: The Town Hall
Hornton Street
London
W8 7NX

Decision (including any steps ordered)

1. The complainant has requested information regarding Grenfell Tower including minutes of fire safety meetings, costs of refurbishments, consideration of sprinkler systems and details of previous fire incidents in the building.
2. The Commissioner's decision is that the Royal Borough of Kensington & Chelsea ("the Royal Borough") has breached section 10(3) of the Freedom of Information Act 2000 ("the Act") and, or to the extent that the requested information is environmental, Regulation 7(1) of the Environmental Information Regulations by respectively failing to issue a response within a reasonable timeframe or 40 working days.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Respond to the request, by providing a substantive response in accordance with the Act and, or to the extent that the requested information is environmental, provide a substantive response in accordance with the Regulations.
4. 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

5. On 15 June 2017, the complainant made three requests to the Royal Borough and requested information in the following terms:

Request 1

"Please supply all council records of all fire related incidents at Grenfell tower that the council retain.

Please supply all council meeting documents detailing what action was decided when discussing fire safety recommendation of Grenfell tower."

Request 2

"What was the total cost of the recent refurbishment of Grenfell tower?

Has the council ever considered or declined to install a sprinkler system at Grenfell tower?

If so what was the projected cost i.e £3000 per flat?

If declining to install a sprinkler system at Grenfell tower block, which council committee or members decided not to install a sprinkler system?"

Request 3

"Please supply minutes, of all meetings with RBK&C, TMO and residents association, concerning fire safety risks raised by resident's committee."

6. The Royal Borough responded to all three requests individually on 13 July 2017. It stated that it considered the requested information to be environmental in nature and informed the complainant that it would need an additional 20 working days to respond, under Regulation 7(1) of the Regulations, because of the complexity and volume of information requested. No further response had been issued at the date of this Decision Notice.

Scope of the case

7. The complainant contacted the Commissioner on 19 December 2017 to complain that he had not received a response from the Royal Borough.

8. On 15 January 2018, the Commissioner wrote to the Royal Borough to notify it of the complaint. In line with normal practice, she requested that the Royal Borough issue a response to the complainant within 10 working days.
9. The Royal Borough did not respond to the letter of 15 January 2018 and, on the evidence available to the Commissioner at the time of issuing this notice, has not issued any further response to the complainant.
10. The complainant contacted the Commissioner on 1 February 2018 to request a Decision Notice considering the Royal Borough's compliance with the Act and, to the extent that the requested information is environmental, the Regulations.
11. The Commissioner considers that the scope of this investigation is to determine whether the Royal Borough has complied with Section 10(3) of the Act and, or to the extent that the requested information is environmental, Regulation 7(1) of the Regulations.

Reasons for decision

12. Section 1(1) of the Act 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. Section 8(1) of the Act states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) *is in writing,*
- (b) *states the name of the applicant and an address for correspondence, and*
- (c) *describes the information requested.*

14. The Commissioner considers that the request in question fulfilled these criteria, and therefore constituted a valid request for recorded information under the Act.

15. Section 10 of the Act states that response to requests made under the Act must be provided *"promptly and in any event not later than the twentieth working day following the date of receipt."*
16. Section 10(3) of the Act states that, where a public authority has to consider whether the balance of the public interest requires disclosure *"the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given."*
17. Regulation 5(1) of the Regulations states that *"a public authority that holds environmental information shall make it available on request."*
18. Regulation 5(2) of the Regulations states that *"Information shall be made available....as soon as possible and no later than 20 working days after the date of receipt of the request."*
19. Regulation 7(1) of the Regulations states that:
Where a request is made under regulation 5, the public authority may extend the period of 20 working days...to 40 working days if it reasonably believes that the complexity and volume of the information requested means that it is impracticable either to comply with the request within the earlier period or to make a decision to refuse to do so.
20. From the evidence provided to the Commissioner in this case, it is clear that the Royal Borough did not respond to the request within a reasonable timeframe and has therefore breached Section 10(3) of the Act.
21. From the evidence provided to the Commissioner in this case, it is clear that, to the extent that the requested information is environmental, by failing to respond within 40 working days, the Royal Borough has breached Regulation 7(1) of the Regulations.
22. The Royal Borough provided no further reasoning for extending the time for a response to 40 working days. However, by not responding within 40 working days of receiving the request, the Royal Borough has breached Regulation 7(1) and the Commissioner does not need to decide whether an extension of the timeframe was justified.

Other matters

23. The Commissioner is conscious that the public authority has been dealing with a tragic and major incident within the Borough, which has attracted national attention and which is now subject to a high profile public inquiry. The Commissioner recognises that these are exceptional and difficult circumstances. Nevertheless, the public authority's statutory obligations remain and whilst the Commissioner is a proportionate and reasonable regulator, she is unable to ignore a complete lack of response to an information request. Likewise, she cannot ignore a complete lack of engagement with her office when undertaking her regulatory functions.
24. The Commissioner's preference is always to resolve complaints on an informal basis where possible. Unfortunately, in this case, the Royal Borough's complete failure to engage with her office in any way has rendered that approach impossible.
25. Accordingly, this is one of a series of Decision Notices which will be issued to the Royal Borough in relation to these issues within a short space of time. All of these Decision Notices have arisen from complaints made to the Commissioner about the timeliness of responses to requests made, to the Royal Borough, under the Act and/or the Regulations. The Commissioner's position is that the Royal Borough's failure to engage with her Office has left her with no alternative but to issue a Decision Notice in each case.
26. The Commissioner would strongly encourage the Royal Borough to engage properly with her Office in future.

Right of appeal

27. 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

28. 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.
29. 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

Alun Johnson
Team Manager
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