

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 March 2018

Public Authority: Highways England

Address: Piccadilly Gate
Store Street
Manchester
M1 2WD

Decision (including any steps ordered)

1. The complainant has requested information from Highways England about charges. Highways England has not provided a response to the request.
2. The Commissioner's decision is that:
 - Highways England has breached section 10(1) of the FOIA as it has not complied with section 1(1) within 20 working days with respect to the complainant's request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Respond to the complainant's request of 26 May 2017 concerning charges by issuing a substantive response that meets the requirements of the FOIA.
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 23 April 2017 the complainant wrote to Highways England (HE) through the 'WhatDoTheyKnow' website and requested information in the following terms:

"... is charging using Appendix A to Annex 23"

6. On 25 April 2017 HE replied and asked the complainant to clarify this request and a separate request concerning audits that she had submitted at the same time.

7. On 2 May 2017 the complainant clarified her requests as follows:

"what is not understand. [Named Individual] has got Appendix A to Annex 23 about charging people. is this in the other areas. audits of the companies in the areas by you."

8. On 24 May 2017 HE again asked the complainant to be more specific.

9. On 26 May 2017 the complainant provided the following clarification:

"i am clear. for the numbered areas i am asking for the audits for the companies that repair roads. i am asking if Appendix A is used in the numbered areas what is not understood now"

10. HE acknowledged this clarified request on 11 June 2017 but did not go on to provide a substantive response despite further contact from the complainant.

11. On 12 February 2018 the Commissioner wrote to HE and required it to provide a response to the complainant's request within 10 working days. On 12 March 2018 the complainant advised the Commissioner that HE had not done so.

Scope of the case

12. The complainant contacted the Commissioner on 2 February 2018 to complain about the way her request for information had been handled.
13. The Commissioner's investigation has focussed on whether HE has met its obligation under section 10(1) of the FOIA.

Reasons for decision

Section 10 – time for compliance

14. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled (a) to be told whether the authority holds the information and (b) to have it communicated to him or her if it is held.
15. Under section 1(3) of the FOIA, in cases where a request is not clear, an authority is not obliged to comply with section 1(1) until the complainant has clarified what information it is that he or she is seeking.
16. Section 10(1) says that a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
17. The complainant submitted a clarified request to HE on 26 May 2017. HE did not ask the complainant for further clarification and the Commissioner must assume that the information being sought through the 26 May 2017 request is clear to HE. To date HE has not provided a response to this request and has breached section 10(1) of the FOIA in this regard.

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: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

Pamela Clements
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