

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 18 May 2018

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

#### Decision (including any steps ordered)

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1. The complainant requested information about a lease agreement with Holland Park School.
2. The Commissioner's decision is that the Royal Borough of Kensington & Chelsea ("the Royal Borough") failed to respond to the request within 20 working days and has therefore breached Section 10 of the Freedom of Information Act.
3. The Commissioner requires the Royal Borough to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. The Royal Borough 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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5. On 27 February 2018, the complainant wrote to the Royal Borough's published FOI email address and requested information in the following terms:

*"Can you confirm therefore that the [Holland Park School] lease has been completed, that it is based on the Department for Education's standard form and the date of such completion. If this is not the case can you provide full details of the basis on which HPS currently occupies the school lands and the reasons why the lease has not been finalised."*

6. The Royal Borough did not acknowledge the correspondence and, at the time of issuing this decision notice, had not provided a response to the Request.

## Scope of the case

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7. The complainant contacted the Commissioner on 5 April 2018 to complain about the lack of response to his information request.
8. In line with her usual practice, the Commissioner contacted the Royal Borough on 5 April 2018 to highlight the outstanding response. She requested that the Royal Borough respond to the request within 20 working days. The correspondence was neither acknowledged nor responded to.
9. The Complainant contacted the Commissioner on 16 May 2018 to request a decision notice considering the Royal Borough's compliance with the FOIA.

## Reasons for decision

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10. Section 1(1) of the 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.*

11. Section 8(1) of the FOIA 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.*

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

13. Section 10 of the FOIA states that responses 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.*"

14. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Royal Borough has breached Section 10 of the FOIA.

## Right of appeal

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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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

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** .....

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**