

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 19 September 2018

**Public Authority:** London Borough of Bromley  
**Address:** Bromley Civic Centre  
Stockwell Close  
Bromley  
BR1 3UH

#### Decision (including any steps ordered)

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1. The complainant requested a copy of the London Borough of Bromley's ("the London Borough") complaints policy.
2. The Commissioner's decision is that the London Borough failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the London Borough to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the FOIA, to the request.
4. The London 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 19 July 2018, the complainant wrote to a Bromley Councillor and requested information in the following terms:

*"Kindly provide a copy of your complaints policy."*

6. The Councillor replied to the complainant the same day, copying in an officer at the Council to say:

*"[name of officer] will I know assist you on this point."*

7. The London Borough did not issue any form of acknowledgement and had failed to provide a substantive response by the date of this notice.

## Scope of the case

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8. The complainant contacted the Commissioner on 16 August 2018 to complain about the failure, by the London Borough, to respond to the request.
9. In line with her usual practice, the Commissioner contacted the London Borough on 29 August 2018 to highlight the outstanding response. She requested that the London Borough respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
10. The Complainant contacted the Commissioner on 17 September 2018 to request a decision notice considering the London Borough's compliance with the FOIA.
11. The scope of this notice and the following analysis is to consider whether the London Borough has complied with Section 10 of the FOIA.

## Reasons for decision

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12. 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.*

13. 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.*
- 14. The Commissioner considers that the request in question fulfilled these criteria and therefore would constitute a valid request for recorded information under the FOIA.
- 15. Whilst her usual guidance is that information requests made to elected representatives have not been made to the public authority, it is clear in this case that the elected representative passed the information request to the London Borough itself – and therefore the London Borough was under a duty to respond to the request.
- 16. 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.*"
- 17. 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 London Borough has breached Section 10 of the FOIA.

## Right of appeal

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

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

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**