

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 15 November 2019

**Public Authority:** Royal Borough of Kingston upon Thames  
**Address:** The Guildhall  
High Street  
Kingston upon Thames  
KT1 1EU

#### Decision (including any steps ordered)

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1. The complainant requested a copy of a parking services contract. The Royal Borough of Kingston upon Thames ("the Royal Borough") had failed to issue a substantive response at the date of this notice.
2. The Commissioner's decision is that the Royal 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 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 23 April 2019, the complainant wrote to the Royal Borough and requested information in the following terms:

*"Please send me the newly sealed on 15/3/19 NSL contract."*

6. The Royal Borough issued a holding response to the request as part of other correspondence with the complainant on 31 May 2019. It stated:

*"We are in the process of developing a redacted version which is currently with the legal department. Unfortunately, I am unable to give an exact timeframe. However, I anticipate that it will be within a few months."*

7. The Royal Borough issued further holding responses but 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 12 October 2019 to complain about the failure, by the Royal Borough, to respond to the request.
9. In line with her usual practice, the Commissioner contacted the Royal Borough on 29 October 2019 to highlight the outstanding response. She requested that the Royal Borough respond to the request within 10 working days.
10. The Royal Borough responded to the Commissioner's correspondence and drew attention to its holding responses, but it stated that it was still not in a position to issue a substantive response.
11. The complainant contacted the Commissioner on 12 November 2019 to note that she had yet to receive a response. As the response remains outstanding despite her intervention, the Commissioner now considers that a decision notice is appropriate.
12. The scope of this notice and the following analysis is to consider whether Royal Borough has complied with section 10 of the FOIA.

### **Reasons for decision**

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13. 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.*

14. 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.*

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

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 Royal 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@justice.gov.uk](mailto:grc@justice.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 .....**

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