

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 February 2020

Public Authority: London Borough of Hammersmith and Fulham
Address: Hammersmith Town Hall
King Street
London
W6 9JU

Decision (including any steps ordered)

1. The complainant requested statistical data about a shared equity scheme. The London Borough of Hammersmith and Fulham ("the London Borough") had failed to respond to the request at the date of this notice.
2. The Commissioner's decision is that the London Borough has 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

5. On 5 November 2019, the complainant wrote to the [PA] and requested information in the following terms:

"The council is involved in the resale of properties in the Council Shared Equity scheme (previously known as Discount Market Sale).

When someone has previously bought off the scheme and is reselling the property, are there statistics on how long it takes from when a buyer is found, to the final sale of the property, or similar timeframe?

Also, are there any statistics on how much has been paid to the H&F legal team for the sale of each property?."

6. On 12 November 2019, the London Borough responded to the complainant in the following terms:

"in order to provide you with information requested, could you please clarify the time period you are after as DMS sales have been ongoing for more than 10 years."
7. The complainant sent a further email on the same day:

"Please could I have the data for the past 3 years."
8. The London Borough sent a further response on 10 December 2019. It acknowledged having received the clarified request, but stated that:

"We are currently dealing with your request. I'm sorry that we will need further time before we can respond but we aim to respond to you by 20 December."
9. The evidence available to the Commissioner indicates that the London Borough had failed to provide a substantive response by the date of this notice.

Scope of the case

10. The complainant contacted the Commissioner on 24 January 2020 to complain about the failure, by the London Borough, to respond to the request.
11. In line with her usual practice, the Commissioner contacted the London Borough on 8 February 2020 to highlight the outstanding response. She requested that it respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
12. The complainant contacted the Commissioner on 24 February 2020 to request a decision notice considering the London Borough's compliance with the FOIA.

13. 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

14. 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.*

15. 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.*

16. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
17. 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.*"
18. 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

19. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

20. 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.
21. 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