

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 October 2022

Public Authority: London Borough of Southwark
Address: 160 Tooley Street
London
SE1 2QH

Decision (including any steps ordered)

1. The complainant requested information relating to a leaking roof and subsequent repairs carried out by the Council and its contractors. By the date of this notice London Borough of Southwark ("the Council") had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - the Council must provide a substantive response to the request in accordance with its obligations under the FOIA.
4. The Council must take this step 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 7 September 2022, the complainant wrote to the Council and requested information in the following terms:

"Questions 4 & 5 were worded to include my own property (the complaints/ repairs I made or were made on my behalf) not just neighbouring properties owned by the Council which should have been evident given the timeframe quoted (1996 to 2021), therefore this should have prompted the release of my personal information at least however, I did not even get this which is my point. If the argument is that you were unclear on exactly what was being requested the Council could have sought clarity from myself or further information regarding any of the points listed within my request however, it appears that due to their failings in responding to the request within the statutory timeframe I was not provided with the opportunity to do this and the request was closed."

6. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant originally contacted the Commissioner on 2 September 2021 to complain about the Council's failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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."

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
11. The Commissioner has written to the Council on a number of occasions since the initial complaint was raised, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request.
12. Despite these interventions the Council has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

Other matters

14. During the Commissioner's investigation, it was suggested that questions 4 and 5 of the complainant's original request, should be dealt with under the Environmental Information Regulations 2004 (EIR) due to their relationship with elements of the environment.
15. Therefore, the Council's response had cited the regulations concerning EIR.

Right of appeal

16. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

17. 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.
18. 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
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