

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 November 2022

Public Authority: Hertsmere Borough Council
Address: Elstree Way
Borehamwood
WD6 1WA

Decision (including any steps ordered)

1. The complainant requested information relating to correspondence concerning the White Hart Public House. By the date of this notice Hertsmere Borough Council (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 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 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 25 January 2022, the complainant wrote to the council and requested information in the following terms:

"Please could you supply any records relating to :-

1. Any records, correspondence , letters or emails between any Agent, Employee or Director connected with or on behalf of Griggs Homes & its associated enterties
and
Hertsmere Borough Council, including its Officers or its Councillors , or any individuals or enterties acting on behalf of Hertsmere Borough Council relating to The White Hart Public House, South Mimms between June 1st 2021 and 31st December 2021
2. Any records, correspondence , letters or emails between Hertsmere Borough Council, including its Officers or its Councillors , or any individuals or enterties acting on behalf of Hertsmere Borough Council
and
South Mimms Parish Council Clerk or Parish Councillors relating to The White Hart Public House, South Mimms between June 1st 2021 and 31st December 2021
3. Any records, correspondence , letters or emails between between Hertsmere Borough Council, including its Officers or its Councillors , or any individuals or enterties acting on behalf of Hertsmere Borough Council
and
the Welwyn & Hatfield Times newspaper between 1st November & 31st December 2021
4. Any such records, correspondence , letters or emails relating to The White Hart Public House, South Mimms in relation to any bid to designate the pub as an Asset of Community Value between June 1st 2021 and 31st December 2021" (sic)
6. The council acknowledged the request on 25 January 2022. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 October 2022 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 FOIA.

Reasons for decision

9. Section 1(1) of 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 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. On 31 October 2022 the Commissioner wrote to the council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant’s request within 10 working days.

12. Despite this intervention 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 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 FOIA.

Right of appeal

14. 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

15. 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.
16. 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

Michael Lea
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