

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 15 March 2011

Public Authority: Nottingham City Council
Address: Loxley House
Station Street
Nottingham
NG2 3NG

Summary

The complainant requested, under the Freedom of Information Act 2000, information about documents that he had already received.

The public authority responded and provided the information that it held. This response was provided late. There were two further exchanges of correspondence about matters of concern and the complainant complained to the Commissioner.

During the course of the investigation, the complainant agreed that his complaint was focused on the delays that he had experienced.

The Commissioner finds that the public authority has breached section 10(1). The public authority has provided the information to which the complainant was entitled and therefore the Commissioner does not require remedial steps to be taken in this case.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 20 September 2010 the complainant requested:

- (i) Specific document ref. C:\Documents and settings\Harold\Local Settings\Temporary Internet Files\ContentIE5\K7L76U31\8 march 06 communications strategy summary.doc.
 - (ii) Please advise who "Harold" refers to in item 1.
 - (iii) Specific document ref. C:\Documents and Settings\staff\Local Settings\Temporary Internet Files\OLK4\25 April 06-document for StephenB,.doc or.
 - (iv) Specific document ref. C:\Documents and Settings\staff\Local Settings\Temporary Internet Files\OLK4\25 April 06-document for StephenB..doc.
 - (v) Please advise who "Stephen B" refers to in item 3) or 4).
 - (vi) All documents to, from or copied to [Individual A redacted] relating to communications strategy from January 2006; February 2006; March 2006; April 2006; May 2006.
 - (vii) All documents to, from or copied to [Individual B redacted] relating to communications strategy from January 2006; February 2006; March 2006; April 2006; May 2006.
3. On 8 November 2010 the public authority issued its response. It apologised that it was late. It provided the information for some elements of the request and confirmed that it did not hold relevant recorded information for others. It detailed the searches that it had carried out.
4. On 8 November 2010 the complainant requested further clarification in relation to the response and asked some other questions.
5. On 3 December 2010 the public authority issued its internal review response. It provided a more detailed explanation about why it did not hold relevant recorded information.
6. On 6 January 2011 the complainant asked the public authority to clarify three aspects of the internal review response. The public authority treated this as a new request for information:
- (i) I note that in relation to Question 3a [Individual A redacted] has not been asked if he is the Stephen B referred to in the document. Could you please ask him?

- (ii) I also note that in Question 3c he has not been asked who the Harold is in the document already disclosed. Could you please ask him?
- (iii) Additionally could you please ask [Individual B redacted] if he is the Harold in the document already disclosed?

On 20 January 2011 the public authority issued a new response. It confirmed that the Act imposed no obligation to generate new information and it did not hold the information.

The Investigation

Scope of the case

- 7. On 5 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the delays that he had experienced. He confirmed that he had received many conflicting updates and no appropriate response.
- 8. On 11 March 2011 the complainant agreed that this case would focus on the delays that he had experienced. He confirmed that he wished for a Decision Notice to be issued to record these delays.

Chronology

- 9. On 8 December 2010 the Commissioner wrote to the public authority to remind it of its obligations under the Act, to answer requests. He asked the public authority to provide a response to the request dated 20 September 2010. At this stage, the Commissioner did not know that a response had already been issued by the public authority on 8 November 2010.
- 10. The complainant then indicated that he remained dissatisfied with the internal review that he had received.
- 11. On 12 January 2011 the Commissioner wrote to the public authority and the complainant to confirm that he had received an eligible complaint. He asked the public authority to explain its position to him.
- 12. On 22 January 2011 the public authority explained that the complainant had made a linked request and provided the Commissioner with the correspondence.
- 13. On 11 March 2011 the Commissioner discussed this case with the complainant on the telephone. He explained that the Act only applied to

relevant recorded information and that he believed the complainant had received the relevant recorded information in this case, where it was held. The complainant confirmed that he understood that the Act did not compel further recorded information to be generated. He asked for the Commissioner to issue a Decision Notice solely to record the delays he had experienced. The Commissioner confirmed what was agreed in an email to the complainant dated 14 March 2011.

Analysis

Procedural Requirements

14. As noted above, the Commissioner is solely considering the delays that were experienced in this case.

Section 10(1)

15. Section 10(1) states that:

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.'

16. In this case it is acknowledged and accepted that the public authority failed to process the original request within the twenty working days stipulated in section 10(1).
17. In failing to process the request in twenty working days, the public authority failed to comply with section 1(1)(a) [confirmation or denial that it held information] and section 1(1)(b) [the provision of that information] within twenty working days.

The Decision

18. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act. It breached section 10(1) because it failed to comply with section 1(1) within twenty working days.

Steps Required

19. The Commissioner requires no steps to be taken.

Right of Appeal

20. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 15th day of March 2011

Signed

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

Legal Annex

General Right of Access

Section 1(1) provides 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."

Time for Compliance

Section 10(1) provides that –

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt'.