

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 June 2015

Public Authority: The Land Registry
Address: Trafalgar House
1 Bedford Park
Croydon
CR0 2AQ

Decision (including any steps ordered)

1. The complainant has requested information from the Land Registry relating to her boundaries. Land Registry has responded to the request by addressing the points as 'business as usual' rather than responding to the request under the FOIA.
2. The Commissioner's decision is that the Land Registry was correct not to address the request under the FOIA. The Commissioner does not require the public authority to take any steps.

Request and response

3. On 24 November 2014 the complainant wrote to the Land Registry and requested information in the following terms:

"IN REFERENCE TO YOUR LETTER DATED 19/11/2014 WHEN I REQUESTED A COPY OF MY BOUNDARIES, WHERE IT STATES THERE ARE LIMITATIONS OF CONSTRUCTION TO MY PROPERTY. WHICH ARE WITHIN 200 METRES. IN YOUR LETTER YOU STATED YOU DO NOT HOLD THE INFORMATION I REQUIRE. WITH THIS FACT IN MIND I AM WRITING TO REQUEST INFORMATION UNDER THE FREEDOM OF INFORMATION ACT 2000. IN ORDER TO ASSIST YOU WITH THIS REQUEST I AM OUTLINING MY QUERY AS SPECIFICALLY AS POSSIBLE.

1) WHY? DO YOU NOT HOLD DETAILS OF MY BOUNDARIES.

2) YOU STATED THAT ON PURCHASE OF MY PROPERTY, MY SOLICITOR [NAMED SOLICITORS] DID NOT REGISTER MY BOUNDARIES, I

WOULD LIKE CLARIFICATION OF THIS, AS [NAMED SOLICITORS, STATE THEY DID EVERYTHING CORRECTLY.

3) WHEN MY DAUGHTER PHONED ON MY BEHALF, ABOUT MY BOUNDARIES, AND ASKED IF YOU COULD GET COPIES FROM THE ARCHIVES. IT WAS STATED LAND REGISTRY, DOES NOT HAVE ARCHIVES AT THE DEPARTMENT, THEN I REQUEST WHO DOES.

4) I WOULD APPRECIATE AN EXPLANATION WHEN I PAID £7.00 FOR MY BOUNDARIES, I RECEIVED A VERY INAPT COPY, WHERE PLEASE FIND ENCLOSED MY COPY, WHY? AS IT BEEN DOWN SCALED.

5) ALSO FIND ENCLOSED AREA'S DESIGNATED UNDER HOUSING ACTS. ROAD PROPOSALS BY PRIVATE BODIES WHICH CLEARLY STATES, LIMITS OF CONSTRUCTION OF WHICH ARE WITHIN 200 METRES OF THE PROPERTY. I REQUEST UNDER F.O.I. 2000 IS IT [NAMED SOLICITORS] FAILURE OR LAND REGISTRY THAT I CANNOT RECEIVE BOUNDARIES, OF WHICH BY LAW IS MY ENTITLEMENT."

4. The Land Registry responded on 28 November 2014. The response made no reference to the FOIA but addressed each point in turn and provided a detailed explanation about the issue raised in each point.
5. The complainant then sent an undated letter to the Land Registry stating that the five questions were requests under FOIA and must be addressed as such. She went on to state that if the Land Registry was claiming that a third party held the information then it is the duty of the Land Registry to transfer the request to the relevant department. The complainant provided her "reaction" to the letter of 28 November 2014 as follows:

"1) YOU DO NOT CLARIFY THE STATEMENT MADE BY YOUR DEPARTMENT, THAT [NAMED SOLICITORS] DID NOT REGISTER MY BOUNDARIES WHEN I ASKED FOR COPIES OF THE LIMITATIONS OF 200 METRES TO ENCROACH MY BOUNDARIES.

2) YOU STATED [NAMED SOLICITORS] HAD NOT REGISTERED MY BOUNDARIES, YOU HAVE NOT ANSWERED THIS REQUEST, AND FOR YOUR INFORMATION. I DID HAVE A DETAILED COPY, STATING THAT NO STRUCTURE WAS ALLOWED WITHIN 200 METRES OF MY PROPERTY, THIS PAPERWORK WENT MISSING THAT IS WHY? I REQUESTED ANOTHER COPY.

3) YOU HAVE NOT ANSWERED WHY? WHEN MY DAUGHTER PHONED LAND REGISTRY, ENQUIRING IF A COPY COULD BE HAD FROM THE ARCHIVES, IT WAS STATED THAT LAND REGISTRY DOES NOT HOLD

THE ARCHIVES AT THEIR DEPARTMENT (ON ENQUIRIES TO THE LIBRARY, THEY STATED THEY DID) I REITERATE AGAIN, WHO? DOES HOLD THEM.

4) YOU HAVE NOT EXPLAINED, FROM THE TWO COPIES I GAVE YOU, MINE IS WHAT I RECEIVED ON PURCHASE, ABOUT THE COPY I RECEIVED AFTER PAYING £7.00 WHICH WAS AN INAPT COPY, MINE CLEARLY DEPICTING MY FRONTAGE, YOURS NOT, THE COPY YOU HAVE SINCE ENCLOSED DEPICTS [SPECIFIED LOCATION], BUT NOTHING OF MY FRONTAGE, WITH NEW LIGHTS, BLEEPING CONTROLLED PEDESTRIAN CROSSING, DOUBLE YELLOW LINES, ALL ON MY BOUNDARIES.

5) THE REASON I GAVE YOU A COPY OF THE LOCAL AUTHORITY SEARCH, WAS TO REITERATE THAT THERE IS A 200 METRE BOUNDARY TO MY PROPERTY, WHICH MUST BE REGISTERED AT LAND REGISTRY (I HAVE ALREADY COMPLAINED TO RCT COUNCIL UNDER THE FOI ACT 2000 WHICH IS NOW WITH THE FIRST TIER TRIBUNAL FOR JUDGEMENT AS THEY NEVER ANSWERED THE FOI 2000 REQUEST."

6. The Land Registry responded on 8 December 2014 following consultation with a departmental lawyer. It explained why it had not dealt with the initial request under the terms of the FOIA and stated further that irrespective of whether the request falls within the Act or not, there is no further information that could be supplied. Land Registry again then addressed each of the complainant's points in turn offering an explanation to assist in clarifying its position. The letter concluded by offering to discuss the correspondence with the complainant or to provide the correspondence in a different format if required.
7. The complainant wrote to the Land Registry further on 13 December 2014. She queried why reference had been made to a departmental lawyer and suggested that the lawyer should have told the author of the previous letter that the person to whom the initial request was addressed is required to respond to the FOI request and only if he/she does not have the information available to them should he/she transfer it to the department which does. She went on to state that she required (named individual) to respond to her FOI request item by item.
8. The Land Registry replied on 23 December 2014. It explained that it had referred to a departmental lawyer explaining why the named officer did not respond to previous correspondence and explained that it had supplied copies of all information held.

Scope of the case

9. The complainant contacted the Commissioner on 29 December 2014 to complain about the way her request for information had been handled. Specifically she complained about the Land Registry's lack of cooperation. She stated that having addressed her correspondence to a named individual it was passed to someone else who gave hypothetical answers. She stated that she was not provided with the names of the departmental lawyers who provided advice and reiterated that when a request under FOIA is made to an individual then that person should respond. She further stated that the Land Registry had not replied under section 77 of the Act.
10. The Commissioner considers the scope of the case is to consider whether the request of 24 January 2014 constituted a valid request in accordance with FOI section 8 and whether the Land Registry should have handled it as such.
11. The Commissioner wrote twice to the complainant explaining that he did not consider the request to be a valid request under the FOIA; he provided reasons and advised that a decision notice was not appropriate. The complainant insisted upon the issue of a decision notice.

Reasons for decision

12. Section 1(1) of FOIA states that:

1(1) Any person making a request 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.*

13. The Commissioner notes here for ease of reference that the FOIA does not require a response to be addressed by any specific individual. It is for the public authority to determine who is tasked with providing a response.
14. Section 8(1) of FOIA states:

8(1) 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. Therefore, a request for information has to include a description of the information requested for it to be a valid request under the Act.
- 16. The Commissioner notes that in the initial correspondence where the complainant makes reference to the Act, she also makes reference to her previous correspondence to Land Registry. He has not seen that correspondence but the complainant herself makes a direct link between that correspondence and her request for information. The Commissioner also notes that in her opening paragraph the complainant describes the request as a query.
- 17. The requests themselves appear to relate directly to an ongoing issue between complainant and Land Registry and each aspect of the complaint seeks an explanation of an issue or clarification of a previous point.
- 18. Question 1 asks why the Land Registry does not hold information about the complainant's boundaries. There is no obligation on a public authority to explain why information is not held.
- 19. Question 2 seeks clarification of something which has been addressed in previous correspondence. The request relies on the public authority having prior knowledge which is not set out by the complainant in her request
- 20. Question 3 again refers to an issue addressed in communication pre dating this request, specifically a phone conversation, where it appears that the issue of archived material has been addressed. The complainant now asks who has archives.
- 21. Question 4 seeks an explanation as to why a copy of documentation previously issued has allegedly been scaled down. This requires the public authority to determine whether documentation provided prior to the request has been scaled down.
- 22. Question 5 addresses an assumed failure in respect of the complainant being able to "receive boundaries" and asks whose failure it is. This again requires knowledge of the correspondence/communication which pre-dates the request.

23. The Commissioner considers that requests for information made under section 1 of the FOIA have to fulfil the requirements of section 8, which includes a description of the information requested.
24. Although the FOIA does not prescribe how the information sought must be described, the Commissioner considers that the purpose of section 8(1)(c) is to enable the public authority to narrow down what the requester wants.
25. It is the Commissioner's position that a request will meet the requirements of section 8(1)(C) as long as it contains a sufficient description of the information required. Details as to date, author purpose or type of document, physical location, subject matter or relevant business area may all help to identify the nature of the information requested. Each request must be considered on its individual merits to determine whether the information sought has been adequately described for the purposes of section 8.
26. The Commissioner does not consider that the initial correspondence outlining the request adequately sets out a description of the information requested; rather it appears to seek to use the FOIA as a means of advancing an existing complaint. The request relies on prior knowledge of the situation and does not seek information that could be identified, located and extracted by any member of staff at the Land Registry handling the request; rather it seeks clarification and explanation of specific situations relating to the complainant's previous interaction with the public authority on the issue of her boundaries.
27. It is of course open to a public authority, in accordance with FOIA section 1(3) to require further information from a requester in order to identify and locate requested information. However, the Land Registry opted to answer the queries in the course of normal business.
28. Whilst the Commissioner accepts that it would have been helpful had the Land Registry explained in its initial letter of 28 November 2014 that it was not responding under the FOIA, he also acknowledges that the Land Registry has tried to resolve the ongoing issues by responding outside the FOIA.
29. In the Commissioner's view, there was not an adequate description of the requested information for the purposes of section 8(1)(c) but the public authority took a pragmatic approach to the request and answered the points outside of the Act. This provided the complainant with explanation, analysis and clarification which the Land Registry would not have been obliged to provide under the FOIA.

30. The Commissioner is therefore satisfied that the Land Registry has not defaulted on its obligations under the Act, specifically as regards section 8.

Other matters

Reference to the FOIA

31. In circumstances where requests for information refer to the FOIA but do not constitute valid requests for information under the Act, the Commissioner would advise that in future the Land Registry ensures that it clearly sets out that it is not responding under the Act and the reasons for such a decision.

Section 77

32. The Commissioner notes that the complainant has asserted that the Land Registry has not answered the request honestly and with integrity in accordance with section 77. The complainant may not accept what the public authority has said but she has neither suggested, nor provided evidence to suggest, that in response to her request, any records have been altered, defaced, blocked, erased or destroyed with the intention of preventing disclosure. Given this and the fact that the request did not meet the terms of section 8(1)(c) of the FOIA, the Commissioner is unable to find the Land Registry in breach of section 77.

Right of appeal

33. 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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

34. 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.
35. 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

Alexander Ganotis
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SK9 5AF