

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 February 2019

Public Authority: London Borough of Enfield
Address: Thomas Hardy House
39 London Road
Enfield
Middlesex
EN2 6DS

Decision (including any steps ordered)

1. The complainant requested a copy of a data retention policy and an unpopulated copy of a spreadsheet.
2. The Commissioner's decision is that the London Borough of Enfield ("the London Borough") 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 24 May 2018, the complainant wrote to the London Borough and requested information about its allocation of music lessons ("the May Request"). The London Borough responded on 11 June 2018 and stated that it did not hold some of the information within the scope of this request. The information it stated that it did not hold related to the

average amount of time those individuals that were on the list had been there. The London Borough argued that the information it held was in the form of a dynamic spreadsheet and that it therefore could not re-create historical snapshots.

6. The complainant requested an internal review of that earlier request on 30 August 2018. When challenging the London Borough's response, he argued that the hard copy forms which parents were required to complete were dated and that, as the London Borough should hold those forms, it should hold the information he requested.
7. In the course of challenging the London Borough's response, the complainant then made a further request for information ("the August Request") in the following terms:

"Please provide a copy of Enfield Councils Data Retention Policy relevant in this case and a copy of the Spread Sheet Template (without any data) referred to by Enfield Music Service."
8. The London Borough eventually carried out an internal review of the May Request, but had not issued a substantive response to the August request at the date of this notice.

Scope of the case

9. The complainant contacted the Commissioner on 2 October 2018 to complain about the way the London Borough had handled the May Request. He also noted that he had received no response to the August Request.
10. The Commissioner is still in the process of investigating the way that the London Borough responded to the May Request and she takes no position in this notice as to whether the London Borough handled that request appropriately. This notice relates solely to the August Request.
11. When commencing her investigation into the May Request, the Commissioner noted that the London Borough had still not responded to the August Request – despite having carried out an internal review in relation to the May Request (thereby implicitly acknowledging that it received the August Request). The Commissioner requested that the London Borough issue its response to the August Request within 10 working days. The correspondence was neither acknowledged nor responded to.
12. The Commissioner is not aware of any evidence to suggest that the London Borough has issued a response. Therefore the scope of this

notice and the following analysis is to consider whether the London Borough has complied with Section 10 of the FOIA in the way it responded to the August Request.

Reasons for decision

13. 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.*

14. 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.*

15. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

16. 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.*"

17. 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

18. 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@hmcts.gsi.gov.uk

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

19. 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.
20. 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

**Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**