

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 November 2020

Public Authority: London Borough of Hackney
Address: 1 Hillman Street
London
E8 1DY

Decision (including any steps ordered)

1. The complainant requested copies of all internal communications from the London Borough of Hackney (the Council) relating to a recent court proceeding. The Council acknowledged the request but had failed to provide a substantive response by the date of this notice.
2. The Commissioner's decision is that the Council failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Council 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 23 August 2020, the complainant wrote to the Council and requested information in the following terms:

"The order attached below may be sealed but it is not the same as the unsealed version served on the parties. It appears to have been tampered with as the formatting has been distorted and certain of the content has been changed. Please explain who is responsible for the alterations and provide the exact document you say was 'received from the court' together with its covering communication. You should provide a complete account of the mutating order and the reasons for any alterations.

'In due course' is not acceptable with regard to providing the Defendants with your counsel's notes of the proceedings that took place without notice to us. Please ensure these are forthcoming without further delay on Monday morning.

Also please confirm which Councillor(s) and or Council officers were responsible for the decision to proceed to seek an injunction in such abnormal circumstances, particularly without notice to the Defendants.

Also, under the FOIA please provide all internal communications (emails, reports, minutes of meetings, formal decision records, etc.) leading to the decision to make the application from the inception of the process to date."

6. The Council acknowledged the request on 24 August 2020 but had failed to provide a substantive response by the date of this notice.
7. In the Council's acknowledgement of 24 August 2020 it also advised the complainant that there had been "no distorting or change in content" to the order referred to above, by the Council.

Scope of the case

8. The complainant contacted the Commissioner on 25 September 2020 to complain about the failure, by the Council, to respond to the request.
9. In line with her usual practice, the Commissioner contacted the Council on 8 October 2020 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.

10. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

Reasons for decision

11. 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.*

12. 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.*

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

14. 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.*"

15. 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 Council has breached section 10 of the FOIA.

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: 0300 1234504
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

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