

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 January 2021

Public Authority: London Borough of Hackney
Address: Town Hall
Mare Street
London
E8 1EA

Decision (including any steps ordered)

1. The complainant made two requests for information about a particular property and relationship with a contractor. The London Borough of Hackney ("the London Borough") allocated reference numbers to both requests, but had failed to respond to either request at the date of this notice.
2. The Commissioner's decision is that the London Borough failed to respond to either request within 20 working days and has therefore breached section 10 of the FOIA in respect of both requests.
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 requests which it dealt with under references 6498 and 6640.
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 31 August 2020, the complainant filled out an online form to submit a request for information. The London Borough acknowledged this request the same day and allocated it the reference number 6498. As the automated acknowledgement did not include a copy of the text that was submitted via the online form, the complainant was unable to provide a definitive copy.
6. On 18 September 2020, the complainant filled out the same online form to submit a further request for information. The London Borough acknowledged this second request the same day and allocated it the reference number 6640. As the automated acknowledgement did not include a copy of the text that was submitted via the online form, the complainant was unable to provide a definitive copy – however, she sent a follow-up email to an officer of the London Borough on 24 September 2020 which, she says, sought the same information:

"1-) As a person whose life was put in danger while living here, I demand to see the 2015 dated contract between Hackney Council and GGM .

2-) I want to see the tender that is mentioned in the below 2015 Guardian article. A tender cannot be confidential. I cannot find it listed online.

<https://www.theguardian.com/society/2015/dec/24/the-high-price-of-cheap-living-how-the-property-guardianship-dream-soured>

3-) I want to receive a copy of the "change of use" documents.

4-) I want to receive a copy of all the survey reports that were done before this property was let for dwelling purposes in 2015 including FSRA(fire Safety Risk Assessment) for HMO, Electrical Installation Condition Report (EICR), Portable Appliances Testing (PAT), Gas Safety Certificate, Emergency Lighting Testing, AFD Automatic Fire Detection Testing, HMO Compliance Report, EPC Rating report.

5-) I want to see the copies of all the reports/surveys of this property since 2015.

5-) I would like to know how much of the earned income from this property was used for its maintenance and repair in each year; 2015, 2016, 2017, 2018, 2019, 2020."

7. Whilst the London Borough continued to issue holding responses as part of broader correspondence with the complainant in respect of the

underlying issue, neither information request had been responded to at the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 18 November 2020 to complain about the failure, by the London Borough, to respond to the request.
9. In line with her usual practice, the Commissioner contacted the London Borough on 5 December 2020 to highlight the outstanding response. She requested that the London Borough respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
10. The complainant contacted the Commissioner on 21 December 2020 to request a decision notice considering the London Borough's compliance with the FOIA.
11. The scope of this notice and the following analysis is to consider whether the London Borough has complied with section 10 of the FOIA.

Reasons for decision

12. 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.*

13. 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.*

14. The Commissioner considers that the text that the complainant supplied in relation to her second request met the criteria above. She notes that nothing in the wording of the London Borough's acknowledgement of the first request nor in any of its subsequent correspondence to the complainant, would indicate that the London Borough did not consider the request to be one which met the above criteria. The Commissioner is therefore satisfied, on the balance of probabilities, that both requests were valid.
15. 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.*"
16. 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.

Other matters

17. The Commissioner is aware that the London Borough suffered a major attack on its information systems in October 2020. Whilst such an incident does not remove the statutory obligations of the FOIA, if the London Borough no longer has access to, or is no longer able to identify the wording of the specific requests, it should contact her offices at the earliest opportunity so that a practical solution can be found.
18. The Commissioner would also encourage the London Borough more generally to keep engaging with her office in order to maximise compliance with information rights legislation.

Right of appeal

19. 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

20. 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.
21. 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

Phillip Angell
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