

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 28 April 2022

**Public Authority:** London Borough of Barnet  
**Address:** Hendon Town Hall  
The Burroughs  
Hendon  
London  
NW4 4BG

#### **Decision (including any steps ordered)**

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1. The complainant has requested information from the London Borough of Barnet regarding the registration of skip lorries.
2. The Commissioner's decision is that the London Borough of Barnet failed to disclose all the requested information it held within 20 working days of receiving the request and therefore breached section 10 of the FOIA.
3. However the Commissioner is satisfied that it has provided the complainant with all the requested information it holds.
4. The Commissioner does not require the London Borough of Barnet to take any steps.

#### **Background**

5. The London Borough of Barnet ("the public authority") has explained to the Commissioner, that any skip placed on its highway network must be one licensed by it to registered skip companies only. Prior to 2018, there was no formal Skip Company Registration form/Scheme in place. It is not a statutory scheme but is considered good practice. At the end of the month, for each skip company who is registered with it, (in 2022) skip companies pay a fee of £58.20 for a two week licence per skip or pay a fee of £116.40 for a 4-week license per skip.

## **Request and response**

6. On 15 June 2020, the complainant wrote to the public authority, requesting information in the following terms:
  - Please can you provide me with a list of all the skip companies that have registered with Barnet Council. Please also provide the corresponding date of registration when each company registered with Barnet council
7. The public authority substantively responded on 2 July 2020. It stated that it held the requested information and purported to provide the same to the complainant.
8. On the 6 August 2020 the complainant asked the public authority to review its response, claiming that it had not provided all the requested information. In particular the response appeared to suggest that no skip companies were ever registered with (the public authority) before January 2020. She had asked for all skip companies that had been registered not just the current 2020 list of registered skips.
9. Following the internal review the public authority wrote to the complainant on 16 June 2021. It stated that, amongst other things, that it had not supplied all the requested information to the complainant in its original reply. The public authority purportedly remedied the situation by providing the remainder of the requested information. The complainant received this posted communication on the 18 June 2021.

## **Scope of the case**

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10. The complainant contacted the Commissioner to complain about the way her request for information had been handled. In particular the complainant cited the delay in the public authority complying with her request for an internal review and had been sceptical as to whether it had supplied all the requested information.
11. The response does not provide the corresponding date of registration. Providing just the months in 2020 was not providing the date of registration, he had asked for all the corresponding dates of registrations.
12. The Commissioner considers he has to determine, if the public authority has provided all the requested information to the complainant that it holds and has otherwise complied with the FOIA.

## **Reasons for decision**

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13. By virtue of section 1(1) of the FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b) to have the information communicated to them if it is held and is not exempt information.
14. Where there is a dispute between a public authority and a complainant as to whether all requested information falling within the scope of a request has been provided to the complainant, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide the matter based on the civil standard of on the balance of probabilities.

### **Public authority submissions**

15. In order to determine this matter, the Commissioner asked a series of questions of the public authority regarding whether it had disclosed all the requested information it holds to the complainant. The salient questions and answers thereto are replicated below.

Q. What searches were carried out for information falling within the scope of this request and why would these searches have been likely to retrieve any relevant information?

A. Searches were carried out of the folder where the skip company list is kept, as well as the skip inbox as these are the areas in which information is managed and stored in relation to skip licenses.

Q. If searches included electronic data, please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.

A. Network folder and email.

Q. If searches included electronic data, which search terms were used?

A. Skip company list / skip registration / registered skip companies

Q. If the information were held, would it be held as manual or electronic records?

A. Electronic record.

Q. Was any recorded information ever held relevant to the scope of the complainant's request but deleted/destroyed?

A. No information held has been destroyed as the scheme started in 2018 and all information held falls within the retention period of 10 years.

Q. If recorded information was held but is no longer held, when did the London Borough of Barnet cease to retain this information?

A. N/A

Q. What does the London Borough of Barnet formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the London Borough of Barnet describe the way in which it has handled comparable records of a similar age?

A. It provided a copy of its Corporate Lifecycle policy which sets out how information is managed and its Big Bucket Retention Schedule which lists what is held and how long it is kept for within the organisation.

It explained that it kept the information for business purposes and audit purposes. The retention period is 10 years.

Q. Does the London Borough of Barnet have a record of the document's destruction?

A. There is no requirement to have a certificate of destruction given the low level nature of the information being destroyed, but corporate procedures will be followed when the 10 year period for retention is reached, and secure disposal of application forms will be necessary.

Q. If the information is electronic data which has been deleted, might copies have been made and held in other locations?

A. No.

Q. Is there a business purpose for which the requested information should be held? If so, what is this purpose?

A. The purpose of holding data is for records of registered skip companies who seek to operate within the Borough.

Q. Are there any statutory requirements upon the London Borough of Barnet to retain the requested information?

A. No.

### **Commissioner's findings**

16. Having regard to the above, the Commissioner is satisfied that any requested information is held electronically by the public authority and the searches undertaken were sufficient to identify the totality of information requested. Accordingly, the Commissioner cannot discern evidence that the public authority has not discharged its obligations under the FOIA to provide requested information. Therefore having regard to the nature of the information requested, the information provided, and the searches undertaken the Commissioner is satisfied that on the balance of probabilities the public authority has provided the complainant with all the requested information it holds.
17. Under section 10(1), a public authority must comply with section 1(1) promptly and within 20 working days following the date of receipt of the request.
18. The public authority has stated that it received the request on 24 June 2020. The requested information was not provided to the complainant, in its entirety, until 18 June 2021. The public authority therefore failed to communicate all the requested information to the complainant within 20 working days of receiving the request and thus breached section 10(1) of the FOIA.

**Other matters**

19. The public authority has explained to the complainant that the delays in this case were caused by it having restricted access to postal communications (as used by the complainant), due to the then COVID situation.

## Right of appeal

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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,  
LEICESTER,  
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

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.

**Signed .....**

**Gerrard Tracey**  
**Principal Advisor**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**