

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 18 August 2011

Public Authority: The Royal Borough of Kingston upon Thames
Address: Guildhall
High Street
Kingston upon Thames
KT1 1EU

Summary

The complainant submitted a request for information about the costs of dealing with an incident involving the complainant's property to the Royal Borough of Kingston upon Thames ('the Council'). The Council failed to respond within the statutory time for compliance. Consequently the Commissioner finds a breach of section 10(1) of the Act. He does not require the Council to take any further action.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

Background

2. In September 2010 a window at the complainants' house was damaged after it was smashed by a piece of metal. This occurred whilst a contractor employed by the Council was mowing a grass verge near to the complainants' home. The complainants complained to the Council about this incident.

The Request

3. On 6 January 2011 the complainants wrote to the Council to request *"the cost to the Council and its rate payers, of your handling of this incident and subsequent follow up with us, up to and including today's date"*.
4. Following the intervention of the Commissioner the Council responded to this request on 7 July 2011. The response stated that *"the Council has incurred no identifiable additional costs in relation to the handling of this incident and subsequent follow up. Any cost is within the normal running costs of the Council that would have been incurred in any case"*.

The Investigation

Scope of the case

5. On 22 March 2011 the complainants contacted the Commissioner to complain about the Council's failure to respond to their request. This Decision Notice focuses on the time taken to respond to the complainants' request.

Analysis

Substantive Procedural Matters

Section 10

6. Section 1(1)(a) of the Act requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
7. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than twenty working days after the date of receipt of the request.

8. The complainants submitted their request for information on 6 January 2011. The Council did not issue a substantive response until 7 July 2011, after the intervention of the Commissioner. The Commissioner therefore finds the Council in breach of section 10(1) of the Act as it failed to provide either the requested information or a valid refusal notice within the statutory time limit.

The Decision

9. The Commissioner's decision is that the Council breached section 10(1) of the Act by failing to respond to this request within the statutory time for compliance.

Steps Required

10. The Commissioner does not require the Council to take any further action.

Right of Appeal

11. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 18th day of August 2011

Signed

**Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Section 1 – General right of access to information

- 1- (1) 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

Section 10 – Time for compliance with a request

- 10- (1) Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt