

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 May 2018

Public Authority: Royal Borough of Kensington & Chelsea
Address: Town Hall
Hornton Street
London
W8 7NX

Decision (including any steps ordered)

1. The complainant requested information about trading licences issued for the Notting Hill Carnival.
2. The Commissioner's decision is that the Royal Borough of Kensington & Chelsea ("the Royal Borough") failed to respond to the request within 20 working days and has therefore breached Section 10 of the Freedom of Information Act.
3. The Commissioner requires the Royal Borough to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Royal 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 26 September 2018, the complainant sent an email requesting information in the following terms:

"I am requesting information under the Freedom of Information Act regarding trading licenses issues by the council at Notting Hill Carnival to be emailed to me at this email address [redacted].

"Specifically: I would like to know how many street trading licences (or similar, known by another name) have been issued, and at what costs and locations, over the two days of Notting Hill Carnival each year since RBKC began to issue such licences. I would also like to know what, if any, stipulations have been issued to traders (i.e. whether they have been restricted in any way to what they can sell or what services they can provide). I would like to see all documentation you have pertaining to the licences."

6. The email was sent to a number of departmental and individual email addresses within the Royal Borough but not the central FOI email address itself.
7. One of the individuals to whom the email had been sent responded to the email within a few minutes saying *"I will revert back to you shortly on how we will proceed."* However, the Royal Borough had failed to provide a substantive response by the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 6 March 2018 to complain about the failure, by the Royal Borough, to respond to her request.
9. In line with her usual practice, the Commissioner contacted the Royal Borough on 12 March 2018 to highlight the outstanding response. She requested that the Royal Borough respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
10. In view of the fact that a response remains outstanding, some 8 months since it was made and despite her intervention, the Commissioner considers that a Decision Notice is appropriate in this case.

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 Royal Borough 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@hmcts.gsi.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
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