

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 26 November 2018

Public Authority: London Borough of Bromley
Address: Civic Centre
Stockwell Close
Bromley
BR1 3UH

Decision (including any steps ordered)

1. The complainant requested an explanation of the decisions and actions taken by the public authority in relation to a complaint they submitted to the public authority. He also requested information relating to the training provided to specific members of staff involved in the handling of his complaint.
2. The Commissioner's decision is that the London Borough of Bromley ("the London Borough") failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
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 request.
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 27 August 2018, the complainant wrote to the London Borough and requested information in the following terms:
1. *"I wrote to you, first, on 10 July 2018. My second letter to you was on 5 August. Please explain why you did not reply to these letters.*
 2. *My first letter, 10 July 2018, was a formal complaint about the way the London Borough of Bromley investigated my formal action under the Anti-Social Behaviour Act 2003 Part 8, High Hedges (Ref: HH/00072). I complained that the London Borough of Bromley had failed to implement the Act correctly and had ignored the majority of the government guidelines. What measures have you taken to pursue my complaint? Please give full details of your actions and a complete timeline.*
 3. *I originally emailed [Council Officer 1] on 26 June 2018 making my first complaint to him on this matter. I asked him to refer this to his senior manager. On 29 June 2018, I phoned your planning department to find out why I had received no contact. It transpired that [Council Officer 1] had failed to report my complaint. It was only as a result of my phone call that [Council Officer 1] emailed me shortly afterwards to admit he had only just reported the complaint to [Council Officer 2].*
 4. *On 2 July 2018, I received an email from [Council Officer 2] telling me he was investigating my complaint. I emailed back, concerned that he would require details of my complaint to be able to assess it correctly – and offering to supply them. I also asked [Council Officer 2] what his qualifications were to investigate what is primarily a legal matter. No reply – so I emailed him again on 6 July 2018. Still no response. Indeed, it is nearly two months since [Council Officer 2] wrote to inform me that he was handling the complaint – still with no further contact. My question to you, therefore, is: what actions has [Council Officer 2] taken to investigate my complaint? Please provide a timeline. What qualifications does [Council Officer 2] have?*
 5. *What training did [Council Officer 1] receive to qualify him to implement the High Hedges legislation? Please provide full details.*
 6. *What guidelines does the London Borough of Bromley have in place for employees, including yourself, to reply to complaints from their residents?*

7. *What external bodies can I complain to about the egregious behaviour of London Borough of Bromley staff in dealing with my complaints."*

6. The London Borough acknowledged the request on 4 September 2018 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 10 October 2018 to complain about the failure, by the London Borough, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the London Borough on 22 October 2018 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.
9. The complainant contacted the Commissioner on 8 November 2018 to request a decision notice considering the London Borough's compliance with the FOIA.
10. 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

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 London 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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF