

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 31 October 2011

**Public Authority:** London Borough of Hounslow  
**Address:** The Civic Centre  
Lampton Road  
Hounslow  
TW3 4DN

### Decision (including any steps)

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1. The complainant has requested information relating to a penalty charge notice.
2. The Information Commissioner's decision is that the public authority breached section 10(1) of FOIA by failing to respond to the request within the statutory time limit.
3. The Commissioner does not require the public authority to take any action as a result of this notice.

### Request and response

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4. On 23 May 2011 the complainant wrote to the public authority and requested information in the following terms:

*"I have received your letter of 17th May enclosing a CD relating to the above, but unfortunately the information contained in it has not proved retrievable. My son has worked in the I.T. industry for many years and he could not access the material on the disc.*

*I have recently purchased a decent Dell computer with Windows 7 professional, so we are not talking about using 'old technology' here. I am sure that you can see from your extract, that the bus lane goes up to within a car's length of traffic lights. It would have been virtually impossible to turn left at these lights (turning left was at Green), without entering the bus lane, as vehicles in*

*the one traffic lane remaining, were tailed back, because their traffic light was at stop.*

*Firstly, by drawing the bus lane almost up to the traffic lights, where there must be common tailbacks in the one remaining lane, it appears as if the council is acting as an 'agent provocateur' and inviting people turning left to enter the bus lane, to get round the corner (which is a perfectly legitimate wish to do), or sit and watch their side traffic lights turn to red, because they cannot get to the tiny cut in to do so. Secondly, by sending me a disc that cannot be viewed, appears obstructive; an impression which I assume the council does not want to convey, to someone trying to prove that a bus lane has been drawn far too close to traffic lights, to enable traffic to turn left.*

*There was no post code on the parking notice, just Staines Road, Hounslow (which is as you know, quite a long road!) and I had to remember back a twelve mile journey to try to locate where this happened. The whole process so far from Parking Services has sought to obscure the exact location, the location of the traffic lights at the intersection and their phasing, the number of vehicles in the traffic lane at the time and what distance from the traffic lights the bus lane ends. I am now formally requesting this information under the Freedom of Information Act 2000 and please send this along with relevant and viewable details".*

5. The public authority acknowledged the correspondence on 8 June 2011. It stated: "*your appeal has been received*" and advised the complainant that a response would be sent in due course.
6. The complainant chased a response to his request on 24 June 2011. By return the public authority advised him that the correspondence had been treated as an appeal to the penalty charge notice and that his request under the FOIA would need to be sent to a different section; it provided details.
7. The complainant responded saying that it should have forwarded his request to the relevant section on 23 May 2011 when it was received.
8. On 30 June 2011 the public authority sent a response. It apologised for the delay and explained: "*unfortunately, the FOI was not logged correctly as it was included in your representation to the penalty charge notice*".

## Scope of the case

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9. On 19 August 2011 the complainant contacted the Information Commissioner to complain about the way his request for information had been handled. He explained that he did not have an issue with the actual information which he was supplied but he was dissatisfied with the length of time to respond and the apparent inability of a department at the public authority to deal with a request under the FOIA.
10. The Information Commissioner's comments regarding the latter part of the complaint can be found under '*Other matters*'.

## Reasons for decision

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11. Section 10(1) of FOIA provides that a public authority should comply with section 1(1) within 20 working days. Section 1(1)(a) requires a public authority in receipt of a request to initially confirm whether it holds the requested information.
12. The request was submitted on 23 May 2011 and the complainant did not receive a response until 30 June 2011. The Information Commissioner therefore finds that the public authority has breached section 10(1) by failing to comply with section 1(1)(a) within the statutory time period.

## Other matters

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13. The public authority confirmed receipt of the request on the day it was sent. The request itself stipulates that it is a request under the FOIA rather than continued correspondence in respect of the complainant's ongoing appeal. Therefore it is clear that the public authority was in receipt of a request made under the FOIA and that it should have been aware that it was not to be treated as '*normal course of business*'.
14. When the complainant '*chased*' a response to his request he was then told to forward it to another department at the same public authority. It is the Information Commissioner's view that, when a request is made to a public authority, it is irrelevant to which department that request is directed. Whilst there may be a preferable route to assist with the administration of requests under the FOIA, it is not strictly necessary for a requester to comply with this regime.

15. As far as this requester is concerned, he has made a written request under the FOIA, which has been acknowledged. It is therefore his logical belief that he has made a valid request which has been formally accepted by the public authority. Had the request been made to a different public authority, then that public authority may have elected to either transfer the request to the correct place, informing the requester accordingly, or it may have returned it to the requester with advice regarding where it should be sent, if known. However, the request has been made to the correct public authority so it should not then require the complainant to resend his request to an alternative internal email address.

## Right of appeal

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

Tel: 0300 1234504  
Fax: 0116 249 4253  
Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

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** .....

**Jon Manners**  
**Group Manager – Complaints Resolution**

**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**