

Freedom of Information Act 2000

Decision notice

Date: 9 September 2013

Public Authority: Ascham Homes

Address: 869 Forest Road

London

E17 4UH

Decision (including any steps ordered)

1. The complainant requested information relating to works carried out under the Decent Homes Programme. The Commissioner's decision is that Ascham Homes has not issued a response to the request and has not met its obligations under sections 1 and 10 of the Freedom of Information Act 2000 (the Act).
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a response to the complainant's request
3. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

4. On 26 January 2012, the complainant wrote to Ascham Homes and requested information in the following terms:

"1. Please provide documentary evidence of your assertion of the compensatory award recommend by the LGO for the remedial works that were only completed in March 2010.

2. Also provide a copy of the LGO's relevant findings referring to the issues of delay in carrying out the remedial works and award for compensation.

- 3. Please provide the documentary evidence (from 2007 – 2010) when Ascham Homes offered to complete the remedial works and my refusal for the same to be undertaken.*
- 4. Please disclose how you became aware that you have been in communication with their insurers. Please provide any documentary evidence passing between you and Breyers and the reason for such communication between you and Breyers.*
- 5. Please provide documentary evidence of how long after the DHP were the works to herein corrected?*
- 6. Please provide documentary evidence of how, when and how much compensation for the long delay and damage to my property was paid to me.*
- 7. Please provide a copy of the contract for carrying out the Decent Homes Programme of 2006 (DHP). In particular, the section that relates to indemnity for damage caused to tenants' property during the carrying out of DHP."*
5. The Commissioner has no record of any acknowledgement issued by Ascham Homes or that the complainant has written to Ascham Homes to inform it that a response is overdue.
6. The complainant contacted the Commissioner on 9 October 2012 to complain that she had not received a response to her request.
7. On 14 December 2012 the Commissioner wrote to Ascham Homes to provide it with a copy of the request and ask that a response be issued. Ascham Homes informed the Commissioner that it considered the request was best handled by the legal department of the London Borough of Waltham Forest, which carries out its legal functions.
8. The London Borough of Waltham Forest stated to the Commissioner that it considered the responsibility of providing a response to the complainant's request in accordance with the Act was that of Ascham Homes. However, the legal department at the London Borough of Waltham Forest did provide advice for Ascham Homes on how to handle to request, and informed it that no response should be issued to the request as it related to ongoing legal proceedings.
9. To date no response from Ascham Homes has been issued to this request.

Scope of the case

10. The Commissioner considers the scope of the request to be whether Ascham Homes has met its obligations under the Act to provide a response to the requests.

Reasons for decision

11. Section 1 of the Act states that an individual who asks for information is entitled to be informed whether the information is held, and – providing no exemptions apply – if the information is held to have the information communicated to them.
12. Section 10 of the Act states that a public authority must respond to a request promptly or “not later than the twentieth working day following the date of receipt”.
13. The complainant faxed her request on 27 January 2012 and has a fax receipt showing that the request was sent successfully. The twentieth working day after 27 January 2012 was 20 February 2012, which has clearly been missed.
14. The Commissioner has prompted Ascham Homes on a number of occasions to provide a response to the request, yet none has been issued. The Commissioner requires Ascham Homes to provide a response so that it meets its obligations under the Act.

Other matters

15. Ascham Homes is of the view that it should not respond to the request as it relates to legal proceedings. The Commissioner wishes to clarify that this does not negate the obligation to provide a response to a request.
16. If Ascham Homes wants to withhold information it needs to issue a refusal notice in accordance with section 17 of the Act. So if information is to be withheld Ascham Homes must state that fact, along with which exemption applies, and the reasoning for why that exemption applies.

Right of appeal

17. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

18. 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.
19. 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

Alexander Ganotis
Group Manager – Complaints Resolution
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