

Freedom of Information Act 2000

Decision notice

Date: 2 January 2014

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

Decision (including any steps ordered)

1. The complainant requested information relating to how the London Borough of Bromley considers disputes over penalty charge notices (PCNs). The Commissioner's decision is that on the balance of probabilities it is unlikely that the London Borough of Bromley holds any further information.
2. The London Borough of Bromley breached section 10 of the Freedom of Information Act 2000 (the Act) as it did not provide a response within the statutory time limit of 20 working days. However, as a response has been provided no further action is required.

Background

3. The complainant was issued with a PCN which he claims he never received. This dispute was taken to the Parking and Traffic Appeals Service (PATAS), where the Traffic Adjudicator was satisfied that the complainant never received the PCN. However, it was a matter for the London Borough of Bromley to decide whether to charge the full penalty amount or allow the complainant to pay half the penalty. The London Borough of Bromley demanded the full penalty.

Request and response

4. On 18 July 2012, the complainant wrote to the London Borough of Bromley and requested information in the following terms:

"The PATAS Traffic Adjudicator made a finding of fact that I did not receive the PCN.

Under the Freedom of Information Act, I require a sight of the document which documents a policy decision by Bromley Council to insist on full payment of PCNs without discount in these circumstances."

5. No response was provided so the complainant wrote again to the London Borough of Bromley. The Commissioner does not know what date the request was resent but it was received by the London Borough of Bromley on 4 September 2012.

6. The London Borough of Bromley responded on 21 September 2012. It provided a link to a document on its website that explains how it handles PCNs.¹

7. On 29 September 2012 the complainant submitted a further request for information in the following terms:

"[K]indly refer me to the policy document that determines that London Borough of Bromley will ignore recommendations of the Traffic Adjudicator."

8. The London Borough of Bromley responded on 12 October 2012 and gave an explanation of how it handled the previous request but did not provide any further recorded information.

9. An internal review was carried out on 21 November 2012 which revisited the handling of the requests. It gave an explanation as to why the request of 18 July 2012 might have been missed but did not provide any further relevant information.

¹ http://www.bromley.gov.uk/downloads/file/756/parking-how_we_consider_your_appeal

Scope of the case

10. The complainant contacted the Commissioner on 13 December 2012 to complain that he had not received a proper response to his requests. The Commissioner required evidence that the complainant had sought an internal review of the handling of his request in order to be able to investigate the matter. The Commissioner received the requested information from the complainant on 30 May 2013.
11. The Commissioner considers the scope of the case to be whether the London Borough of Bromley holds further information relevant to the complainant's requests of 18 July 2012 and 29 September 2012.

Reasons for decision

Section 1 – information held

12. Under section 1, public authorities have a duty to confirm whether requested information is held and to provide that information to requesters.
13. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner, in accordance with a number of First-Tier Tribunal decisions, applies the civil standard of the balance of probabilities.
14. The Commissioner considers that the two requests are essentially asking for the same information. The complainant is interested in understanding why the London Borough of Bromley decided to not follow the recommendation of the PATAS Traffic Adjudicator and reduce the penalty amount. The Commissioner notes that the complainant has specifically asked for policy documents and has focussed his investigation accordingly.
15. In his investigation the Commissioner asked about the guidance/policy documents held regarding how the London Borough of Bromley considers recommendations from the PATAS Traffic Adjudicator. The London Borough of Bromley explained that it does not hold any further information than that which is provided on its website. Page 12 of this guidance states that a discounted penalty will be charged in "exceptional circumstances", but the London Borough of Bromley has confirmed that there is no specific guideline for what these circumstances are as each case is considered on its own merits.

16. The Commissioner considers that this is reasonable and notes that there is general guidance on how these matters are handled which is freely available on the London Borough of Bromley's website. Whilst the onus is on the London Borough of Bromley as the enforcement authority to decide whether or not to follow the recommendation of the PATAS Traffic Adjudicator, it does not necessarily follow that there must be a policy document detailing the exact circumstances in which the London Borough of Bromley will follow a recommendation or otherwise.
17. The complainant has argued that the handling of his request has taken a long time and he is still not satisfied with the response he has received. This has led him to suspect that there might be further information which is being withheld from him. The Commissioner does not consider this to be the case. While it is not in doubt that the London Borough of Bromley has taken a long time to handle this request, this does not mean that the reasonable conclusion is that relevant information is being withheld.
18. The Commissioner notes London Borough of Bromley's confirmation that it does not hold information outlining a guideline or policy which defines the 'exceptional circumstances' which may lead to a discounted penalty charge. He considers that the submissions from the London Borough of Bromley are sufficient to demonstrate that it is likely all of the information relevant to the request was provided to the complainant. In the absence of evidence indicating further information relevant to the request is held by London Borough of Bromley, the Commissioner's decision is that on the balance of probabilities it is unlikely that any further information is held. No further action is required.

Section 10 – time for response

19. Section 10 of the Act states that a response to a request must be provided promptly and no later than 20 working days following receipt. The complainant made his request on 18 July 2012, and it appears the request was received because the complainant explained it was included with another letter containing a cheque that was cashed by the London Borough of Bromley.
20. A response was not provided by the London Borough of Bromley until 21 September 2012, which is 46 working days after the initial request was made. As such the London Borough of Bromley has breached section 10 of the Act. The Commissioner asks that the London Borough of Bromley makes greater efforts to ensure that requests are identified and handled in a timely manner.

Right of appeal

21. 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: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

22. 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.
23. 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
Information Commissioner’s Office
Wycliffe House
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Cheshire
SK9 5AF**