

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 February 2014

Public Authority: London Borough of Newham
Address: Newham Dockside
1000 Dockside Road
London
E16 2QU

Decision (including any steps ordered)

1. The complainant requested information relating to the towing and impounding of vehicles. The London Borough of Newham (the 'Council') did not respond within the statutory 20 working days prescribed by FOIA. The complainant requested that a decision notice be issued by the Information Commissioner recording the delay.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA by issuing its response late but, as a substantive response has been provided to the complainant, he does not require any remedial steps to be taken.

Request and response

3. On 25 September 2013 the complainant wrote to the Council and requested information in the following terms:
"I would like the questions below answered as a matter of urgency
 1. *When was Newham aware the initial Notice was incorrect?*
 2. *When was the pound informed of this?*
 3. *As I informed [name redacted] today at 11:09am confirm and ensure the vehicle is not destroyed as I do not own it. ([Name redacted] advised if Newham told him to destroy it he would, kindly confirm this will not happen).*

4. *Mouchel/Newham policy with regard to towing and impounding vehicles*
5. *Provide a full copy of the current contract between Mouchel and London Borough of Newham."*

4. The complainant did not receive a response from the Council.

Scope of the case

5. The complainant initially contacted the Commissioner on 31 October 2013 to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the fact that no substantive response had been provided.
6. On 22 November 2013 the Commissioner wrote to the Council requiring it to respond to the request within 10 working days.
7. In the absence of any response the complainant then contacted the Commissioner to request that he issue a decision notice to record the delay.
8. The Commissioner wrote to the Council on 6 December 2013 to advise that the complaint had been accepted. The Council then provided the Commissioner with a copy of its response dated 11 November 2013, which it said it had sent to the complainant.
9. On 15 December 2013 the Commissioner wrote to the complainant to query whether he had requested an internal review, given that the Council had responded. In reply the complainant confirmed that he had not received the response of 11 November 2013 and still required a decision notice for the delay. The Commissioner provided the complainant with a copy of the Council's response.
10. The scope of the Commissioner's investigation was to consider whether there has been a breach of section 10(1) by the Council in its handling of the complainant's request.

Reasons for decision

11. Section 8(1) of the FOIA states that requests for information should be in writing, bear the name and address of the applicant, and describe the information requested. The Commissioner considers that the

request in this case fulfilled these criteria, and therefore constituted a valid request under the FOIA for recorded information.

12. Section 10(1) of the FOIA provides that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
13. Although the Council initially provided a response on 11 November 2013, which the complainant appears not to have received, this is a timescale of 48 working days and well over the 20 working days allowed. From the information provided to the Commissioner it is evident that the Council did not respond to the complainant within the statutory timeframe in respect of this request.
14. The Commissioner does not need to serve a decision notice in an individual case in order to use that case as evidence for future enforcement action; however, should a complainant request the Commissioner to issue a decision notice for a specific complaint he will do so.
15. The Commissioner finds that the Council breached section 10(1) of the FOIA in this case and has ensured that the details of the case have been recorded for future monitoring purposes.

Other matters

16. As well as finding above that the Council is in breach of the FOIA, the Commissioner has also made a record of the delay in this case. This may form evidence in future enforcement action against the Council should evidence from other cases suggest that there are systemic issues within the Council that are causing delays.

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: GRC@hmcts.gsi.gov.uk

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

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

Jon Manners
Group Signature
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF