

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 27 April 2015

**Public Authority:** Hertsmere Borough Council

**Address:** Civic Offices  
Elstree Way  
Borehamwood  
Hertfordshire  
WD6 1WA

#### Decision (including any steps ordered)

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1. The complainant has made two requests for information to Hertsmere Borough Council and has complained to the Information Commissioner about the Council's failure to respond to his requests within the statutory compliance period of twenty working days which is required by section 10 of the FOIA.
2. The Commissioner's decision is that Hertsmere Borough Council has contravened section 10 of the FOIA.
3. The Commissioner does not require the Council to any further action in this matter at the present time.

#### Request and response

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4. The complainant has submitted two requests for information to Hertsmere Borough Council. The first request was made on 12 September 2014 and the second request was made on 28 December 2014. The terms of the complainant's requests are:

The first request:

*"...can you please let me have all the information that Hertsmere Borough Council have that enabled you to identify the above staff as having filled out the register as the audit came to different conclusions than my independent report."*

The second request:

*"Please let me have the following:*

*Since January 2013 to December 2014 inclusive the number of FOI requests received by Hertsmere Borough Council*

*Since January 2013 to December 2014 inclusive the number of FOI requests answered within 20 working days as per the legislation*

*As per above please let me have the amount of reviews requested and the time frame in which you have replied to reviews".*

5. The first request appears to have flowed from a previous request for information which the Council responded to under its reference FOI01000564. In that case, the Council informed the complainant that: "The register of decisions is compiled over time and the council does not hold a record of who filled in the register."
6. The complainant did not accept the Council's position and therefore he made this new or renewed request.
7. The complainant's rationale for making his request was that he had been informed by Hertfordshire County Council, that it had carried out an audit and that this had recorded that the following Hertsmere Borough Council staff had filled in the register: Tree Administration Officer; Technical Support Officer; and Planning Support Officer. The complainant understands that this information was supplied to Hertfordshire County Council by three members of Hertsmere Borough Council's staff, including its Manager for Transport and Policy.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 23 February 2015 to complain about the way his requests for information had been handled.
9. The complainant asserted that the Council have a strange and cavalier attitude towards the Freedom of Information Act in that they do not answer request in an appropriate manner and they ignore requests for internal review.
10. The complainant specifically drew the Commissioner's attention to the two requests outlined above and asked the Commissioner to accept a formal complaint about the Council's refusal to comply with the FOIA.
11. This notice is the Commissioner's decision in respect of the Council's handling of the complainants two requests.

## Reasons for decision

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12. Section 1 of 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."

13. Section 10 of the FOIA states 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."

14. The Information Commissioner spoke with the Council on 16 March to advise it that he had received a complaint from the complainant. The Commissioner informed the Council that the complainant's complaint concerns its failure to respond to his requests for information within the statutory compliance time of twenty working days. The Council advised the Commissioner that both requests had been received.
15. On 18 March the Council sent the Commissioner an email to advise him that it had now responded to the complainant's first request, made on 12 September 2014, and that it was in the course of responding to his second request of 28 December 2014.
16. On 20 April the Council advised the Commissioner that it had responded to the complainant's second request. The Council advised the Commissioner that it had provided the complainant with statistical information relevant to the three elements of that request.
17. In reviewing this case, the Commissioner finds that the Council's email of 18 March is sufficient evidence for him to determine that the Council has contravened section 10 of the FOIA in respect of both of the complainant's requests. It is clear that the Council has exceeded the statutory compliance period by some considerable margin in both instances.
18. The Commissioner must impress on the Council that it must meet its obligations under the FOIA when it receives requests for information in the future. It should endeavour to provide the information which has

been requested – if it is held, or it should issue a refusal notice under section 17 of the FOIA within the statutory compliance period.

## Right of appeal

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19. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

20. 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.
21. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**