

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 January 2018

Public Authority: Hertsmere Borough Council
Address: Civic Offices
Elstree Way
Borehamwood
Hertfordshire
WD6 1WA

Decision (including any steps ordered)

1. The complainant requested information about the number of households placed in temporary accommodation.
2. The Commissioner's decision is that Hertsmere Borough Council ("the Council") failed to respond to the request within 20 working days and has therefore breached Section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The Council 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 5 January 2018, the complainant wrote to the Council and requested information in the following terms:

"Please could you provide me with the following information:

1. *For applicant households accommodated by your authority in bed and breakfast hotels (e.g. privately managed, meal(s) provided, shared facilities) or other nightly paid, privately managed accommodation with shared facilities, as of December 31, 2017*
 - a. *the total number of households in such accommodation*
 - b. *the total number of households in such accommodation for more than 6 weeks but less than 13 weeks*
 - c. *the total number of households in such accommodation for more than 13 weeks but less than 26 weeks*
 - d. *the total number of households in such accommodation for more than 26 weeks but less than 52 weeks*
 - e. *the total number in such accommodation for more than 52 weeks*

2. *For applicant households accommodated by your authority in bed and breakfast hotels (e.g. privately managed, meal(s) provided, shared facilities) or other nightly paid, privately managed accommodation with shared facilities, as of December 31, 2017*
 - a. *the total number of households with dependent children and / or pregnant woman with no other dependants in such accommodation*
 - b. *the total number of households with dependent children and / or pregnant woman with no other dependants in such accommodation for more than 6 weeks but less than 13 weeks*
 - c. *the total number in such accommodation with dependent children and / or pregnant woman with no other dependants for more than 13 weeks but less than 26 weeks*
 - d. *the total number in such accommodation with dependent children and / or pregnant woman with no other dependants for more than 26 weeks but less than 52 weeks*
 - e. *the total number in such accommodation with dependent children and / or pregnant woman with no other dependants for more than 52 weeks*

3. *For applicant households accommodated by your authority in bed and breakfast hotels (e.g. privately managed, meal(s) provided, shared facilities) or other nightly paid, privately managed accommodation with shared facilities, as of December 31, 2017*
 - a. *the total number of children in such accommodation*
 - b. *the total number of children in such accommodation for more than 6 weeks but less than 13 weeks*
 - c. *the total number of children in such accommodation for more than 13 weeks but less than 26 weeks*
 - d. *the total number of children in such accommodation for more than 26 weeks but less than 52 weeks*
 - e. *the total number of children in such accommodation for more than 52 weeks*

"Please provide the data as a spreadsheet or CSV."

6. The Council did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 7 June 2018 to complain about the failure, by the Council, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Council on 10 July 2018 to highlight the outstanding response. As it was not entirely clear that the Council had in fact received the original request, she also forwarded a copy. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 7 November 2018 to request a decision notice considering the Council's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with Section 10 of the FOIA.

Reasons for decision

11. Section 1(1) of the 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.*

12. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

13. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.

14. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached Section 10 of the FOIA.

Right of appeal

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,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

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

**Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**