



Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 7 August 2006

Public Authority: London Borough of Lewisham

**Address: Town Hall
Catford
London
SE6 4RU**

Summary Decision

1. The complainant made two requests to the public authority for information related to Homelessness within Lewisham. The public authority responded to the first request by supplying some of the information that had been requested. The public authority failed to respond to the complainant's second request. Despite attempts by the Commissioner to resolve the case informally the public authority still delayed disclosing the information. The public authority is now required to disclose the outstanding information from the first request and respond to the complainant's second request, or else issue a refusal notice in accordance with section 17 of the Act, within 35 days of the date of this notice.

The Commissioner's Role

2. The Commissioner's role is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 ('the Act'). This Notice sets out his decision.

The Request

3. On 28 February 2005 the complainant sent the public authority a questionnaire and requested answers under the Freedom of Information of Information Act. The request concerned Homelessness in the London Borough of Lewisham. The public authority had issued a homelessness review in July 2003 which included a series of figures regarding homelessness in the Borough. The request of 28



February was essentially a request for updated information contained within that review for the years 2003-2004.

4. The public authority responded to the request on 25 April 2005 and therefore outside of the twenty working days. The public authority supplied the complainant with only some of the information that was requested. The public authority explained that it would forward the outstanding information once it had been received from the relevant department within the public authority.
5. On 4 May 2005 the complainant contacted the public authority querying the amount of information that was disclosed.
6. On 31 May 2005 the complainant contacted the public authority to again request the outstanding information.
7. On 29 June 2005 the complainant contacted the public authority to complain about the public authority's handling of the request. The public authority responded on 2 August 2005 by stating that the officer dealing with the request was still compiling the remaining information that had been requested but that he would contact the complainant by 9 August 2005. The complainant has yet to receive the outstanding information.
8. Whilst waiting for the public authority to respond in full to their original request the complainant made a subsequent request to the public authority for information concerning the issue of homelessness within Lewisham.
9. On 13 July 2005 the complainant requested information on the policies of the public authority's Housing Options Centre (formerly known as the Homeless Persons Unit). An officer of the public authority responded to this request on 14 July 2005 by asking the complainant which policies he required. The complainant replied that he was not sure how many policies the Housing Options Centre had and that if the policies could be identified for him he would then decide which policies he required. The complainant did however state that he wanted "the policy relating to home visits in family cases". In response, the same officer said that "I do not have time to identify all the HOC policies". The complainant was referred to another officer at the public authority to liaise with on this point.
10. On 14 July the complainant contacted the relevant officer at the public authority to ask that the policies of the HOC be identified so that he could be sent copies. The complainant did not receive a response and so complained to the public authority on 25 August 2005. At this point the complainant identified two specific policies namely, "a policy on home visits and also one on the retention by applicants of temporary accommodation pending reviews". The complainant did not receive a response from the public authority to his complaint.



The Investigation

Scope of the case

11. On October 20 2005 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following points.
 - That the information disclosed in response to his first request was incomplete
 - That the public authority failed to respond to his second request

Chronology of the case

12. The Commissioner sent an initial letter to the public authority dated 16 December 2005 which gave details of the complaint. On 31 January 2006 the public authority that they were dealing with the complaint and hoped to respond to the complainant's requests within 10 working days.
13. On 23 March 2006 the complainant contacted the Commissioner to explain that he had still not received the information he requested from the public authority. The Commissioner then commenced his investigation of the case and on 24 March 2006 wrote to the public authority to seek an explanation for its handling of the complainant's request. The Commissioner brought to the attention of the public authority its earlier statement that it would respond to the complainant's request within 10 working days. In response the public authority apologised for the delay in dealing with the request and again said that it would provide the complainant with the information he requested.
14. After further contact from the Commissioner the public authority stated that, in respect of the complainant's second request, the London Borough of Lewisham's Homelessness Service has been operating on the basis of guidance given to it by the public authority's Advice and Review Manager and the Office of the Deputy Prime Minister but that this advice has not been codified into a written set of policies and procedures. The public authority also said that it would supply the applicant with the outstanding information from the complainant's first request.

Findings of the case

15. The public authority has not yet responded in full to the complainant's first request. It has failed to demonstrate why the outstanding information can not be supplied. The public authority has not disclosed the information in the complainant's second request because it says that the guidance that its

Homelessness Service operates under has not been codified into a set of written policies and procedures.

Analysis

Procedural breaches

16. Section 1(1) of the Act states:

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.

17. Section 10(1) of the Act 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”.

18. The Commissioner allowed the public authority several opportunities to respond to the outstanding aspects of the complainant's first request and is disappointed that the public authority has yet to disclose this information. At no point has the public authority provided a satisfactory reason as to why this information cannot be disclosed.

18. The Commissioner is not satisfied that the public authority's Housing Options Centre does not have any policies. The Commissioner does not accept the public authority's argument that because it does not have a codified set of procedures or policies it therefore does not have any policies. The Commissioner recognises that guidance and advice, whilst not codified into a policy, could still effectively constitute a policy. Furthermore the public authority's assertion that it does not have any codified policies seems to be at odds with earlier statements from officers within the public authority. Indeed the public authority's reply to the complainant's request, asking the complainant to identify what policies he required, would seem to suggest that some policies, or at least information that constitutes a policy, are in place.



The Decision

19. The Commissioner's decision is that the public authority breached section 10 of the Act by failing to respond to the complainant's first request within 20 working days. By only disclosing some of the information that had been requested the public authority also breached section 1 of the Act. The public authority also breached section 1(1) of the Act by failing to respond at all to the complainant's second request.

Steps Required

14. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- The public authority must supply the complainant with the outstanding information from the complainant's first request 28 February 2006 or else issue a refusal notice in accordance with section 17 of the Act
 - The public authority must respond to the complainant's second request of 13 July 2005 or else issue a refusal notice in accordance with section 17 of the Act
15. The public authority must take the steps required by this notice within 35 calendar days from the date of this notice.
16. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act, and may be dealt with as a contempt of court.

Right of Appeal

18. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:



Information Commissioner's Office
Promoting public access to official information
and protecting your personal information

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 7th day of August 2006

Signed

Graham Smith
Deputy Commissioner

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF