

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 18th September 2008

Public Authority: Taunton Deane Borough Council
Address: The Deane House
Belvedere Road
Taunton
Somerset
TA1 1HE

Summary

On 29 October 2007, the complainant requested information from the public authority about the withdrawal of its complaints procedure. The public authority has not responded to this request, despite the intervention of the Commissioner, and is therefore in breach section 1(1) of the Act. The Commissioner therefore requires the public authority to respond to the request.

The Commissioner's Role

1. The Commissioner's duty 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

2. On 29 October 2007, the complainant wrote to the public authority requesting the following information:

"the date the council withdrew the complaints procedure and who made that decision as per Mr Taylor's statement in November 05 and Mr Thornberry's verbal statement recorded by my lawyers during the ASBO Hearing.

Also if it remains under the limit of costs, any documents, be it my letters or internal documents of any description relied upon to make the decision."

The Investigation

Scope of the case

3. On 17 January 2008, the complainant contacted the Commissioner by telephone to complain that he had not received a response to his request from the Council. He followed this up with a written complaint on 30 January 2008 enclosing a copy of the request.

Chronology

4. On 13 February 2008, the Commissioner contacted the public authority by telephone to ask it to respond to the request if it had not already done so. The public authority stated that it would look into the matter and contact the Commissioner again.
5. On 25 February 2008, the Commissioner again contacted the public authority by telephone to ask it to respond to the request. The public authority stated that it had not yet responded to the request but would do so. The Commissioner asked the public authority to send him a copy of the response to the complainant.
6. The complainant contacted the Commissioner by telephone on 4 April 2008, stating that he had not yet received a response to his request. On 10 April 2008, the Commissioner contacted the public authority by telephone asking it to send a response to the complainant and forward a copy to him by the end of the next working day, 11 April 2008.
7. On 14 April 2008, the public authority contacted the Commissioner by email to state that it would issue a response by the end of that week.
8. On 9 May 2008, the Commissioner wrote to the public authority asking it to forward a copy of the response to the complainant's request once it was completed.
9. On 4 July 2008, the public authority wrote to the Commissioner stating that it would supply the complainant with some information relevant to his request by 18 July 2008.
10. On 8 August 2008, the complainant contacted the Commissioner by telephone, stating that he had still not received a response to his request.

Analysis

Procedural matters

11. The public authority has not handled the information request in accordance with section 1 of the Act, in that it has not informed the complainant whether

information is held in response to his request nor, if held, communicated any such information to the complainant.

The Decision

12. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with sections 1(1)(a), 1(1)(b) and 10(1)¹ of the Act.

Steps Required

13. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
- Write to the complainant with a response to his request in accordance with section 1
14. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Other matters

15. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:

This Decision Notice shows that the Commissioner contacted the public authority four times on an informal basis and asked for a response to be sent to the complainant. On both 14 April and 4 July 2008, the public authority promised to issue a response by specific deadlines, which it did not meet. The Commissioner has now had to issue this Decision Notice in order to legally compel the public authority to issue a response. The Commissioner considers that it is a basic requirement of the Act for a public authority to issue a response to a request and should not require a Decision Notice. He would strongly remind the public authority to respond to future requests within 20 working days or he may consider enforcement action.

Failure to comply

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

¹ See legal annex for relevant extract of legislation

in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

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

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@tribunals.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 18th day of September 2008

Signed

**Gerrard Tracey
Assistant Commissioner**

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

Legal annex

Section 1(1) provides 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.”

Section 10(1) provides that –

“Subject to subsections (2) and (3), 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.”