

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 14 October 2010

Public Authority: Bolton Council
Address: Town Hall,
Victoria Square,
Bolton,
Lancashire
BL1 1RU

Summary

On 20 November 2009 the complainant requested information from Bolton Council relating to performance targets. The public authority provided a response on 22 December 2009, 22 days after the request was submitted. The Commissioner finds that Bolton Council failed to provide an appropriate response to the complainant within the statutory time frame for compliance and has breached section 10(1) of the Act in failing to comply with section 1(1) within twenty working days.

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 20 November 2009 the complainant contacted Bolton Council to request the following information:

"I would like all details of the performance targets for a CEO as set by the enforcement contractor NSL Services Ltd, these targets are approved by Bolton Council."

3. Bolton Council provided the following response on 22 December 2009
*"The Council does not hold any information about performance targets which may or may not be set by NSL Ltd for Civil Enforcement Officers.

I apologise for the slight delay in providing this response."*
4. The complainant requested an internal review in a letter dated 28 December 2009.
5. In a letter dated 27 January 2010 (within 20 working days) the Council provided the complainant with the outcome of its internal review. The Council upheld its initial response and again stated that it did not hold the requested information.

The Investigation

Scope of the case

6. On 15 May 2010 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 fact that the public authority had failed to provide him with a substantive response to his initial request within 20 working days.

Chronology

7. On 19 July 2010 the Commissioner wrote to the public authority reminding it of its obligations under the Freedom of Information Act to respond to the requests for information within 20 working days.
8. The Commissioner also wrote to the complainant on 19 July 2010 stating that he was satisfied that the Council had recognised that it had breached the Freedom of Information Act and had apologised for the delay in responding to this request.
9. The complainant replied to the Commissioner on the same day stating that he wished for a Decision Notice to be issued as he was not satisfied that the Council had recognised its responsibility under the Freedom of Information Act 2000.

Analysis

Procedural Requirements

Section 10

10. Section 10(1) of the Act states 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."

The Commissioner considers that Bolton Council has breached section 10(1) of the Act as it failed to respond to the request within twenty working days following the date of receipt.

11. The dates referenced in paragraphs 2 and 3 shows that the Council took 22 working days to respond to the request.

The Decision

12. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

- *The Council confirmed that it did not hold the information, albeit late, but before the date of the internal review, therefore the Commissioner does not find a breach of section 1(1) as he has not made any ruling on whether the information is held or not.*

13. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:

- The Council has breached section 10(1) of the Act in failing to failing to respond within twenty working days following receipt of the request.

Steps Required

14. The Commissioner requires no steps to be taken.

Right of Appeal

15. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

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 14th day of October 2010

Signed

Andrew White
Group Manager, Complaints Resolution

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

Legal Annex

Time for Compliance

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.”

Section 10(2) provides that –

“Where the authority has given a fees notice to the applicant and the fee paid is in accordance with section 9(2), the working days in the period beginning with the day on which the fees notice is given to the applicant and ending with the day on which the fee is received by the authority are to be disregarded in calculating for the purposes of subsection (1) the twentieth working day following the date of receipt.”

Section 10(3) provides that –

“If, and to the extent that –

- (a) section 1(1)(a) would not apply if the condition in section 2(1)(b) were satisfied, or
- (b) section 1(1)(b) would not apply if the condition in section 2(2)(b) were satisfied,

the public authority need not comply with section 1(1)(a) or (b) until such time as is reasonable in the circumstances; but this subsection does not affect the time by which any notice under section 17(1) must be given.”

Section 10(4) provides that –

“The Secretary of State may by regulations provide that subsections (1) and (2) are to have effect as if any reference to the twentieth working day following the date of receipt were a reference to such other day, not later than the sixtieth working day following the date of receipt, as may be specified in, or determined in accordance with the regulations.”

Section 10(5) provides that –

“Regulations under subsection (4) may –

- (a) prescribe different days in relation to different cases, and
- (b) confer a discretion on the Commissioner."

Section 10(6) provides that –

"In this section –

"the date of receipt" means –

- (a) the day on which the public authority receives the request for information, or
- (b) if later, the day on which it receives the information referred to in section 1(3);

"working day" means any day other than a Saturday, a Sunday, Christmas Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in any part of the United Kingdom."