

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 August 2014

Public Authority: Canal and River Trust

Address: First Floor North, Station House
500 Elder Gate, Milton Keynes MK9 1BB

Decision (including any steps ordered)

1. The complainant requested information about specific moorings. The Canal and River Trust ('the Trust') failed to respond to this request and the Commissioner's decision is that in so doing the Trust breached sections 1(1) and 10(1) of the FOIA.
2. The Commissioner requires the Canal and River Trust to respond to the request.
3. The Trust must take this step 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 Act and may be dealt with as a contempt of court.

Request and response

4. On 31 March 2014, the complainant wrote to the Canal and River Trust and requested information in the following terms:

"This information request concerns boats moored along a stretch of 750m on the offside (east) of the Lee Navigation, to the north of the Springfield Marina, London E5 9BL.

1. Is the riverbed in this location owned by CRT?

2. Is a mooring agreement between CRT and the landowner in operation for these moorings against private land, which appear to be in residential use? If so please provide copies of any records of the agreement.

3. Is CRT receiving payment for the use of its waterspace for these moorings?"

5. The Trust acknowledged receipt of the information request on 4 April 2014, but at the time of writing this decision notice had still failed to respond substantively it.

Scope of the case

6. The complainant contacted the Commissioner on 27 May to complain about the failure of the Trust to respond to their request. The Commissioner contacted the Trust on 29 May and asked it to provide a response to the complainant's request within 10 working days. The Trust did not respond. The complainant confirmed to the Commissioner on 8 July that they had yet to receive a response from the Trust.
7. The Commissioner has focussed his investigation on whether the Canal and River Trust has complied with section 1 and section 10 of the FOIA.

Reasons for decision

Sections 1 and 10

8. Section 1(1) of the FOIA says that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them. Section 10(1) of the FOIA says that a public authority must respond to a request promptly and "*not later than the twentieth working day following the date of receipt*".
9. In this case the Canal and River Trust has breached sections 1(1) and 10(1) by failing to respond to the request within 20 working days. At paragraph 2 above the Trust is now required to respond to the complainant's request in accordance with the FOIA.

Other matters

10. As well as the finding above that the Canal and River Trust has breached the FOIA in this case, a record has been made of the failure to respond to the complainant's information request and this issue may be revisited in future enforcement action.

Right of appeal

11. 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: 0116 249 4253

Email: grc@hmcts.gsi.gov.uk

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

12. 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.
13. 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

Pamela Clements
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Wycliffe House
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Cheshire
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