

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 December 2016

Public Authority: London Borough of Newham
Address: Newham Dockside
1000 Dockside Road
London
E16 2QU

Decision (including any steps ordered)

1. The complainant has requested correspondence between the London Borough of Newham (the "Council"), London Development Agency (LDA) and the Olympic Delivery Authority (ODA) regarding nomination rights to Olympic housing.
2. The Commissioner's decision is that the Council did not deal with the request for information in accordance with section 10 of the FOIA in the following way:
 - It failed to provide a response to the request within that statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation:
 - Issue a response to the request of 18 May 2016 under the FOIA.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 26 February 2016, the complainant wrote to the Council and requested information in the following terms:
 - *Please provide all correspondence and documents relating to negotiations between Newham Council with the London Development Agency and the Olympic Delivery Authority regarding nomination rights to Olympics housing.*
 - *Sponsors 2. What agreement was reached with the LDA and the ODA regarding nomination rights to housing on the Olympic Park? Please provide copies of documents.*
 - *What nomination rights does Newham now have to housing on the Olympic Park? The list should contain the original pledges and the amount received to date.*
6. On 4 March 2016 the Council wrote explaining that it was unable to respond to the request in its current format as the scope was too broad and undefined.
7. On 7 March 2016 the complainant wrote back to the Council with a more specific response.

“Regarding question 1, the first part of the correspondence I am referring to would have been taking place somewhere between December 2005 and September 2006. It may have lasted a bit longer as I can't say exactly when it would have started and ended but this would be the heart of the conversation. At this stage it would have been with the LDA and then, once the ODA was created in the spring of 2006, I would assume the ODA would also have been involved as any agreements would have had to include the ODA.

However, I think it likely there was later correspondence between Newham and the ODA, or possibly with the LLDC as its successor organisation. This is because my understanding is that this agreement to grant nomination rights was later abandoned. Unfortunately I cannot provide any further guidance on when this correspondence may have occurred. This is why I have asked question 3, to see if this agreement is still in existence as housing is now starting to be built in the Olympic Park and if it is in existence then it should be being implemented from now.

Essentially this correspondence hinges on the rights granted to housing bodies, including Newham Council, for rehousing residents from Clays Lane when the estate was closed on account of the Olympics.

Regarding question 2, my question is about the agreement, if any, between Newham on one side and the LDA and/or the ODA on the other

as the discussion concerned the nomination rights to be granted to Newham. I know there were discussions between the LDA and Newham, I am unsure about the participation of the ODA but I assume they were also involved and I know there was an agreement between Newham and the LDA but I am unclear if the ODA was also involved. If there was an agreement between the ODA and the LDA then I am not aware of that and I would not expect you to have information about that."

8. On 30 March 2016 the Council wrote back explaining the request still remain too broad.
9. On 18 May 2016 the complaint wrote again to the Council trying to make the request even more specific.

"My request remains as before with the understanding that correspondence from 2005/6 may be lacking. We were told that the deal that was struck in July/August 2006 meant that Newham (and as I understand it all other RSLs which took Clays Lane residents) would receive five bedrooms for every four residents rehoused.

Another person who may have information on this would be [named individual] who lived at Clays Lane. He was aware of this negotiation at the time that he lived on the estate.

I had hoped to be able to receive correspondence between Newham and the LDA regarding this deal and the actual document setting it out, which I believe Newham should still have as I believe this was actually a contract/agreement between the two bodies.

1. So in that regard my request is still for whatever correspondence is held regarding the negotiations between Newham and the LDA (which may have included the ODA as it was in existence by the summer of 2006) regarding the rehousing of Clays Lane residents and in addition the contract/agreement reached. This agreement would have been signed in either July or August of 2006. I understand that this may be difficult to recover.

2. The second part of my request remains the same, namely what the present arrangement is regarding nomination rights held by Newham to housing on the Olympic Park. I am curious to know whether the arrangement above still exists and if so how many bedrooms Newham expects to receive. If the arrangements above still exist then this should form part of the nomination rights Newham will hold.

3. As there have been a succession of new authorities on the Olympic Park, the ODA, the OPLC and the LLDC, I would assume there has been further correspondence with Newham regarding nomination rights with those authorities. I would continue to request copies of this

correspondence. Indeed I would assume there is an agreement between the LLDC and Newham regarding nomination rights to housing on the Olympic Park. This correspondence should refer back to this earlier deal/agreement either to confirm or overturn it. It should also establish the present nomination rights so even if the original correspondence is no longer available there should be some reference to the original arrangements in subsequent correspondence. I would have to assume there is some correspondence which will cover the arrangements between the LLDC and Newham regarding nomination rights to housing on the Olympic Park.

I understand that documentation may be lacking. However, I would expect an agreement between two legally constituted bodies would still be in existence but obviously I have no way of knowing if this is the case. All I can say is that, as a resident of Clays Lane at the time, we were aware of the negotiations between Newham and the LDA as residents were unable to bid through the East London Lettings Company until August 2006, which was just after this agreement was finally reached, so I think it is most certainly the case that a document was drawn up. We were informed of these arrangements during the relocation process."

10. On 27 May 2016 the Council acknowledged receipt of this request.

Scope of the case

11. The complainant contacted the Commissioner on 8 August 2016 to complain about the way his request for information had been handled.
12. The complainant specifically stated that the Council had not responded to his request of 18 May 2016.
13. The Commissioner has had to consider whether the Council has handled the request in accordance with section 10 of the FOIA.

Reasons for decision

14. Section 10 of FOIA states that a public authority must respond to a request promptly and “no later than the twentieth working day following the date of receipt”.
15. From the information provided the Commissioner in this case, it is evident that the Council did not respond to the request within the statutory time frame of 20 working days. The Council has therefore 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

Chris Hogan
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