

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 January 2020

Public Authority: London Borough of Waltham Forest
Address: Town Hall
Forest Road
London
E17 4JF

Decision (including any steps ordered)

1. The complainant requested various information concerning the CCTV installed at "Northwood Tower".
2. The Commissioner's decision is that the London Borough of Waltham Forest (the London Borough) failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the London Borough to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the FOIA, to the request.
4. The London Borough 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 21 July 2019, the complainant wrote to the London Borough and requested information in the following terms:

"Please will you provide me with the following:-

1) The date CCTV was installed at Northwood Tower.

2) How many cameras were installed and at what location (e.g. communal areas)

3) How many outages have been reportedly [sic] since the installation? And the name of the contractor who carried out the repair.

I would like the above information to be provided to me in paper format and sent to the following address as per below:-

[redacted]"

6. The London Borough acknowledged the request on 22 July 2019.
7. On 30 August 2019 the complainant wrote to the London Borough to chase the outstanding request and to seek an internal review of the handling of their request.
8. The London Borough issued an internal review to the complainant on 10 September 2019. The internal review upheld the complaint in respect of the delay in the handling of the request, explaining that staff absences had delayed the sign-off procedure for the prepared response. The review stated that the response would be sent to the complainant by 13 September 2019.
9. As of the date of this notice, the London Borough's position is that a response to the request was posted to the complainant. The complainant's position is that they have received no such response to their request.

Scope of the case

10. The complainant contacted the Commissioner on 19 September 2019 to complain about the failure, by the London Borough, to respond to the request.
11. After receiving evidence in support of the complaint, and in line with her usual practice, the Commissioner contacted the London Borough on 20 November 2019 to highlight the apparently outstanding response. She

requested that the London Borough respond to the request within 10 working days.

12. On 26 November 2019, the London Borough contacted the Commissioner stating that "*[their] records indicate that a postal response was dispatched to [the complainant]. Please find attached the extract of the information provided in electronic and print format.*" Attached was an un-dated Word document containing responses to the request for information.
13. The complainant contacted the Commissioner on 26 November 2019 to request a decision notice considering the London Borough's compliance with the FOIA, the next day confirming that they had still not received a response to their request.
14. The Commissioner contacted the London Borough on 28 November 2019 and 9 December 2019 to seek further representations. She invited the London Borough to confirm the date the response was issued and to provide any covering letters that accompanied it, or other evidence that the response had in fact been posted to the complainant.
15. The London Borough responded on 12 December 2019 stating that they were "*unfortunately we were unable to locate the associated cover letter which would routinely accompany a postal FOI response.*" They did not state the date which the response was apparently issued on.
16. The scope of this notice and the following analysis is to consider whether the London Borough has complied with section 10 of the FOIA.

Reasons for decision

17. Section 1(1) of the FOIA states 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.*

18. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*

- (b) *states the name of the applicant and an address for correspondence, and*
- (c) *describes the information requested.*

19. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
20. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"
21. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the London Borough has breached section 10 of the FOIA.
22. From the evidence presented to the Commissioner, she has no reason to doubt the complainant's position that they have not received the response to their request for information.
23. The Commissioner notes that the copy of the response provided to her by the London Borough is an un-dated Word document containing plain text. The existence of this document therefore provides insufficient indication that a response was in fact sent to the complainant.
24. The Commissioner also notes that, despite being invited to do so, the London Borough failed to confirm the date that this response was apparently posted to the complainant.
25. The Commissioner therefore has insufficient reason to believe that the copy of the response to the request, prepared by the London Borough, has in fact been posted to the complainant and so, as at point 3 of this notice, she requires that the London Borough issue (or re-issues) a response to the request.

Other matters

26. Although it is beyond the scope of this notice to require that the London Borough issue its response in any particular form or format, the Commissioner draws attention to the complainant's stated preference that the information be provided to them in paper format.
27. The Commissioner notes her concerns that the London Borough's 10 September 2019 internal review gave three different dates for the date of the complainant's request for information; 21 July, 25 July, and 22 August respectively.

Right of appeal

28. 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@justice.gov.uk

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

29. 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.

30. 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

**Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**