

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 15 September 2021

**Public Authority:** London Borough of Southwark

**Address:** 160 Tooley Street  
London  
SE1 2QH

#### **Decision (including any steps ordered)**

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1. The complainant requested information from the London Borough of Southwark ("the Council") relating to a Modular Management Agreement and a Tenancy Management Organisation. The complainant also requested information relating to maintenance repairs at a specific property. By the date of this notice, the Council had not provided a substantive response to the request.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations 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

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5. On 8 February 2021, the complainant wrote to the Council and requested information in the following terms:
- "1. Can you please send me the Modular Management Agreement (MMA)*
  - 2. Tell me why the TMO has removed the MMA from their website?*
  - 3. Will LBS Tenant Management Team place pressure onto the TMO to be transparent and upload this document?*
  - 4. Tell me why the TMO has removed the Rules from their website?*
  - 5. Will LBS Tenant Management Team place pressure onto the TMO to be transparent and upload this document?*
  - 6. Tell me why the TMO has removed the Meeting Minuets from their website?*
  - 7. Will LBS Tenant Management Team place pressure onto the TMO to be transparent and upload these documents?*
  - 8. Can you tell me why some leaseholders have been sent the MMA, where I have been refused?*
  - 9. Can you please tell me what revisions of the MMA and Rules have been put forward and by whom?*
  - 10. Will TMO members across the 7 Estates be given an opportunity to scrutinise and vote on the new MMA?*
  - 11. Why hasn't the LBS Tenant Management Team vetoed the null and void vote in October 2020, which is a breach of MMA? i.e.: why have you not forced FCHS share the minuets, MMA, Rules? ...and will you remedy this?*
  - 12. Have TMO staff received a pay increase over the past two years?*
  - 13. Are FCHS staff on loan from another TMO?*
  - 14. Has the staffing budget increases because of having rented staff?*

15. *As staff are moonlighting, are they working less hours than in the past?*

16. *Was and is the role of TMO Manager advertised prior to [name redacted] taking the role?*

17. *As [name redacted] is once more the Interim Manager, is the role currently being advertised?*

18. *Has there been a motion or suggestion for FCHS to be merged with [name redacted] other TMO [name redacted]?*

19. *Have FCHS staff been removed from the organisation for stealing funds? And if so, what funds and how does this affect the estates and leaseholders?*

20. *There has been an accusation that another staff member has been removed and is now suing for wrongful dismissal. As a result, legal fees and cost have gone up over 400%. Is this true, and will leaseholders incur charges for this lawsuit?*

21. *While investigations go on, are these staff members receiving payment, while others fill in their jobs? If so, where does this money come from? Out of what budgets and will leaseholders incur bills?*

22. *Decorations Cycles:*

a. *Why have no cosmetic repairs been complete since 2003? Seeing they should be completed every 7-10 years, and we have had many promises that money was allocated to these works?*

b. *What happened to the money that was allocated in the past?*

c. *When are works to commence?*

23. *What is happening with the AirBnB situation at [address redacted]? Who is now running that investigation?*

24. *Why did Leaseholders need to pay for roofing repairs when there was an investigation into the cause of the damage, believed to be a result of the Leaseholder of [address redacted] ripping out his property without planning permission and damaging the roof for his new AirBnB.*

25. *Fitting of faulty boilers into properties, causing damage to the outside of the building and people:*

- a) *Who fitted the boilers, FCHS or LBS?*
  - b) *Who was in charge of the team selecting, arranging and fitting the boilers, i.e. [names redacted]?*
  - c) *When were these boilers fitted?*
  - d) *When where these boilers removed?*
  - e) *When was it discovered, and by whom, the boilers were damaging the building?*
  - f) *When was it discovered, and by whom, the boilers were faulty?*
  - g) *Has there been an investigation into whether to boilers were leaking carbon monoxide into properties? I would like to see this report please.*
  - h) *Has there been an investigation into how the leaking of carbon monoxide may have impacted on people's health? I would like to see this report please.*
26. *Why doesn't FCHS have a Privacy Policy and GDPR statement on their website?*
27. *Why hasn't LBS Tenant Management Team made sure the TMO has Privacy Policy and GDPR statement?*
28. *Why hasn't LBS Tenant Management Team been monitoring SCHS behaviour and what does it plan to do about all the breaches of the MMA?"*
6. On 16 March 2021, as the complainant had not received a response, he wrote to the Council to request an update on the status of his information request.
  7. The Council wrote to the complainant on 24 March 2021 to acknowledge his request for information.
  8. On 30 April 2021, as the complainant had not received a response to his request, he wrote to the Council again to ask for an update on the status of his request.
  9. The Council wrote to the complainant on 5 May 2021 to provide him with an update on the status of his request.
  10. On 12 May 2021 and 14 May 2021, the complainant wrote to the Council to ask for a further update on the status of his request.

11. The Council wrote to the complainant on 20 May 2021 and 28 May 2021 to provide the complainant with an update on the status of his request. By the date of this notice, the Council had not provided the complainant with a substantive response to his request.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 14 August 2021 to complain about the Council's failure to respond to his request.
13. The Commissioner contacted the Council on 31 August 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
14. The Commissioner also contacted the complainant on 31 August 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to their request.
15. The complainant has provided evidence that he has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to his information request.
16. The scope of this notice and the following analysis is to consider whether the Council has complied with section 10 of the FOIA.

### **Reasons for decision**

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17. Section 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 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.*"
19. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached section 10 of the FOIA.

## Right of appeal

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20. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.
22. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**