

Freedom of Information Act 2000 (Section 51)

Information notice

Date: 17 October 2024

Public Authority: London Borough of Havering
Address: Town Hall
Main Road
Romford
RM1 3BB

Section 51

Under section 51 of the Freedom of Information Act 2000 (FOIA), which is set out below, the Information Commissioner (the Commissioner) has the power to serve a notice on a public authority requiring it to furnish him with any information he requires to enforce the requirements of FOIA.

51. – (1) If the Commissioner –

(a) has received an application under section 50, ...

he may serve the authority with a notice (in FOIA referred to as “an information notice”) requiring it, within such time as is specified in the notice, to furnish the Commissioner, in such form as may be so specified, with such information relating to the application, to compliance with Part I or to conformity with the code of practice as is so specified.

Application under section 50

1. The Commissioner has received an application under section 50, reference IC-315061-P0P0, for a decision whether a request for information made by the complainant to London Borough of Havering (the council) on 10 November 2023, has been dealt with in accordance with the requirements of Part I of FOIA.

Nature of complaint

2. The complainant is not satisfied with the council's refusal to provide the information.
3. The Commissioner issued a letter on 5 September 2024 requiring the council to respond to a number of questions, and to provide its reasons for relying on the exemption specified by it. The letter outlined the process in place if the council decided to change its position. The Commissioner specifically draws attention to page five of his letter where it states:

"Having revisited the request, you may decide to apply a new exemption. We will consider new exemptions, but it is your responsibility to tell the complainant why the new exemption applies and to provide us now with your full submissions."
4. The Commissioner granted extension of time on two occasions to allow the council to provide its submissions by 4 October 2021.
5. On 4 October 2024 the council wrote to the Commissioner and informed him that it intends to withdraw the decision it made on 15 July 2024 and make a new decision within 30 days.
6. The council's letter of 4 October 2024 is inadequate as it has not followed the requisite process set out for when it decides to change its position. The Commissioner's letter is clear: it should have issued a fresh response and if any exemptions are applied, it should have supplied the withheld information along with its submissions to the Commissioner by the deadline.
7. The Commissioner notes that this request is now almost 12 months old, and these continued delays are unacceptable. The council must respond to the Commissioner, and if exemptions are applied, it should supply the withheld information along with its submission for relying on the exemption(s).

Information required

8. In view of the matters described above the Commissioner hereby gives notice that in the exercise of his powers under section 51 of FOIA he requires that the council shall, within 30 calendar days of the date of this notice, furnish the Commissioner with a copy of the following information:

- The fresh response it refers to in its letter of 4 October.
- Full submissions explaining the reasons why it has relied on any exemption(s) applied.
- A copy of the withheld information (clearly marked to show where the exemptions have been applied).

Failure to comply

9. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of FOIA, and may be dealt with as a contempt of court.

Right of appeal

10. There is a right of appeal against this information notice to the First-tier Tribunal (Information Rights). Information about the appeals process can 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

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

11. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this information notice is sent. If Notice of Appeal is served late the Tribunal will not accept it unless it is of the opinion that it is just and right to do so by reason of special circumstances.

Signed by

Esi Mensah

Senior Case Officer

Information Commissioner's Office

Wycliffe House

Water Lane

Wilmslow

Cheshire

SK9 5AF