

Freedom of Information Act 2000
Environmental Information Regulations 2004
Decision notice

Date: 2 March 2018

Public Authority: Royal Borough of Kensington & Chelsea
Address: The Town Hall
Hornton Street
London
W8 7NX

Decision (including any steps ordered)

1. The complainant has requested correspondence relating to the Grenfell Tower fire, including correspondence between the Royal Borough and the Kensington & Chelsea Tenant Management Organisation; correspondence between the then Leader and Deputy Leader of the Council and internal correspondence within the Royal Borough of Kensington & Chelsea's press office.
2. The Commissioner's decision is that the Royal Borough of Kensington & Chelsea ("the Royal Borough") has failed to issue a substantive response within 20 working days and therefore breached Section 10 of the Freedom of Information Act ("the Act") and, or to the extent that the requested information is environmental, Regulation 5(2) of the Environmental Information Regulations ("the Regulations").
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Respond to the request, by providing a substantive in accordance with the Act and, or to the extent that the requested information is environmental, provide a substantive response in accordance with the Regulations.
4. The public authority 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 15 June 2017, the complainant wrote to the Royal Borough to request information in the following terms:

Request 1

Please note that I am only interested in information which relates to the period January 1 2015 to the present day.

Please note that the reference to the council should include the Chief Executive's office; the leader of the council's office; the council's planning department; the council's housing department; the council's legal affairs department; the council's press and marketing team and those council staff or departments who have specific responsibility for public safety, property management, fire prevention/safety and the council's dealing with KCTMO.

1...During the aforementioned period did the council exchange correspondence and communications (including emails) with Royal Borough of Kensington and Chelsea Tenant Management Organisation (KCTMO) which in any way related to the property known as Grenfell Tower. This correspondence and communication will include but will not be limited to planned renovations to the property, tenants concerns about those renovations and the likely implications of those renovations for public safety and fire prevention. [sic]

2...If the answer is yes can you please provide copies of this correspondence and communications including emails. Please do supply copies of any drawings, sketches and photographs which were submitted along with the correspondence and communication. Please note that I am interested in receiving both sides of the correspondence and communication.

3...During the aforementioned period has the council received written concerns which in any way relate to the safety of the aforementioned building. These concerns could have been sent from individual residents. Alternatively they could have been supplied by residents groups, the management company in charge of the block or organisations like the Fire Service.

4...If the answer to the above is yes can you please provide copies of those written concerns. Please also provide copies of any response to those concerns produced by the council.

6. On 18 June 2017, the complainant submitted two further requests to the Royal Borough in the following terms:

Request 2

Please note that I am only interested in information which applies to the period 13 June 2017 to the present day.

Can you please provide copies of all internal council communications (including emails) generated and or held by the council's press office which in any way relates to the Grenfell Tower fire disaster and the issues arising from that.

Please note my reference to internal council communications. For instance please do not provide copies of communications between the council and individual media organisations. But do provide any internal communications which relate to those requests from media organisations. [sic]

If the council has subsequently destroyed relevant documentation can it please provide a schedule of destroyed documents. Can you please provide copies of the destroyed documents if they are held in another form.

Request 3

Please note that I am only interested in information which applies to the period 13 June 2017 to the present day.

1...During the aforementioned period did Councillor Nick Paget-Brown exchange correspondence and communications (including emails) with Councillor Rock Feilding-Mellen which in any way relates to the Grenfell Tower development. This correspondence and communication will include but will not be limited to the tower itself; the residents living there; the management company running it; the fire which engulfed the tower; the council's response to the tragedy; and concerns about fire safety expressed prior to the fire taking place and the council's response to those concerns.

2...If the answer is yes can you please provide copies of this correspondence and communications including emails. Please provide both sides of the correspondence and communication.

3...During the aforementioned period did Councillor Nick Paget-Brown exchange correspondence and communications (including emails) with the council's Chief Executive which in any way relates to the Grenfell Tower development. This correspondence and communication will include but will not be limited to the tower itself; the residents living there; the management company running it; the fire which engulfed the tower; the council's response to the tragedy; and concerns about fire safety expressed prior to the fire taking place and the council's response to those concerns.

4...If the answer is yes can you please provide copies of this correspondence and communications including emails. Please provide both sides of the correspondence and communication.

If the council has subsequently destroyed documentation relevant to the request can it please provide a schedule of destroyed documents. If destroyed documents are held in another form can you please provide copies of those destroyed documents in another form.

7. The Royal Borough acknowledged the first request on 15 June 2017, but did not acknowledge either the second or third request until 16 August 2017 and only after the complainant had asked for an internal review of the time taken to provide a response.

Scope of the case

8. The complainant contacted the Commissioner on 20 October and 29 November 2017 to complain that he had not received any responses from the Royal Borough.
9. On 15 January 2018, the Commissioner wrote to the Royal Borough to notify it of the complaints. In line with normal practice, she requested that the Royal Borough issue responses to the complainant within 10 working days.
10. The Royal Borough did not respond to the letter of 15 January 2018 and, on the evidence available to the Commissioner at the time of issuing this notice, has not issued any further response to the complainant.
11. The complainant contacted the Commissioner on 5 February 2018 to request a Decision Notice considering the Royal Borough's compliance with the Act and, to the extent that the requested information is environmental, the Regulations.

12. The Commissioner considers that the scope of this investigation is to determine whether the Royal Borough has complied with Section 10 of the Act and, to the extent that the requested information is environmental, Regulation 5(2) of the Regulations.

Reasons for decision

13. Section 1(1) of the Act 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.*

14. Section 8(1) of the Act 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.*

15. The Commissioner considers that the request in question fulfilled these criteria, and therefore constituted a valid request for recorded information under the Act.

16. Section 10 of the Act states that response 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.*"

17. Regulation 5(1) of the Regulations states that

"a public authority that holds environmental information shall make it available on request."

18. Regulation 5(2) of the Regulations states that

"Information shall be made available.....as soon as possible and no later than 20 working days after the date of receipt of the request."

19. From the evidence provided to the Commissioner in this case, it is clear that the Royal Borough did not respond to any of the requests within 20 working days and has therefore breached Section 10 of the Act.
20. From the evidence provided to the Commissioner in this case, it is clear that, to the extent that the requested information is environmental, the Royal Borough has breached Regulation 5(2) of the Regulations.

Other matters

21. The Commissioner is conscious that the public authority has been dealing with a tragic and major incident within the Borough, which has attracted national attention and which is now subject to a high profile public inquiry. The Commissioner recognises that these are exceptional and difficult circumstances. Nevertheless, the public authority's statutory obligations remain and whilst the Commissioner is a proportionate and reasonable regulator, she is unable to ignore a complete lack of response to an information request. Likewise, she cannot ignore a complete lack of engagement with her office when undertaking her regulatory functions.
22. The Commissioner's preference is always to resolve complaints on an informal basis where possible. Unfortunately, in this case, the Royal Borough's complete failure to engage with her office in any way has rendered that approach impossible.
23. Accordingly, this is one of a series of Decision Notices which will be issued to the Royal Borough in relation to these issues within a short space of time. All of these Decision Notices have arisen from complaints made to the Commissioner about the timeliness of responses to requests made, to the Royal Borough, under the Act and/or the Regulations. The Commissioner's position is that the Royal Borough's failure to engage with her Office has left her with no alternative but to issue a Decision Notice in each case.
24. The Commissioner would strongly encourage the Royal Borough to engage properly with her Office in future.

Right of appeal

25. 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

26. 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.
27. 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

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