

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 May 2023

Public Authority: London Borough of Waltham Forest

Address: Town Hall
Forest Road
London
E17 4JF

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Waltham Forest ("the Council") about a request for information submitted by the Local Democracy Reporting Service. By the date of this notice, the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached section 10(1) of FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under FOIA.
4. The Council must take this step 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 7 March 2023, the complainant wrote to the Council and requested information in the following terms:

"I am writing to make an open government request for all the information to which I am entitled under the Freedom of Information Act 2000 (FOIA).

Specifically, I would like the following information:-

1. A copy of the (rejected) FOIA request submitted to the LBWF by the Local Democracy Reporting Service (LDRS) in respect of housebuilder Countryside Partnerships and its affordable housing target for the Marlowe Road Estate in Walthamstow, E17.
2. A copy of the LBWF's initial (rejected) response to the Local Democracy Reporting Service (LDRS) in respect of housebuilder Countryside Partnerships and its affordable housing target for the Marlowe Road Estate in Walthamstow, E17.
3. A copy of the Internal Review submitted to the LBWF by the Local Democracy Reporting Service (LDRS) in respect of the aforementioned.
4. A copy of the LBWF's final response to the Local Democracy Reporting Service (LDRS) in respect of the aforementioned.
5. A copy of all documents released to the Local Democracy Reporting Service (LDRS) in respect of the aforementioned as ordered by the Information Commissioner's Office (ICO).

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

[address redacted]."

6. The Council acknowledged the request on 21 March 2023. To date, a substantive response has not been issued.

Reasons for decision

7. Section 1(1) of 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.”

8. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
9. On 18 April 2023 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
10. Despite this intervention the Council has failed to respond to the complainant.
11. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with FOIA.
12. Section 11 of FOIA allows a requester to express a preference for having the information communicated by a particular means, including a preference to have the information provided in hard copy. The public authority must make the information available by the preferred means so far as it is reasonably practicable.
13. The complainant made a request for the information to be supplied in paper format. As this was not provided within the statutory timescales, the Commissioner also finds that the Council breached section 11 of FOIA.

Right of appeal

14. 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

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

15. 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.
16. 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
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