

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

### **Decision notice**

**Date:** 7 December 2023

**Public Authority:** London Borough of Merton Council  
**Address:** Merton Civic Centre  
London Road  
Merton  
SM4 5DX

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

---

1. The complainant has requested from London Borough of Merton Council ("the Council"), copies of applications made to Keep Britain Tidy for Green Flag Awards. The Council has advised that it holds the requested information.
2. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation:
  - Provide the complainant with the requested information.
3. 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

---

4. On 4 April 2023,, the complainant wrote to the Council and requested information in the following terms:  

“Please provide a copy of any applications (and supporting documents) made to Keep Britain Tidy for Green Flag Awards since September 2022.”
5. On 6 May 2023, the complainant contacted the Council as a response had not been provided.
6. The Council responded on 18 May 2023. It stated that applications are made via an e-form and, therefore, it does not have any physical copies of the applications to share. It also provided a list of respective management plans, which it advised are available on the website.
7. On 18 May 2023, the complainant asked for an internal review. The Council responded on 6 June 2023, advising that the delays for the response were due to a restructuring of the team, along with providing an apology for the delay.
8. On 19 June 2023, the Council provided a further internal review response. On this occasion, it advised that it was not satisfied with how it had handled the request and explained that it would be providing the requested information by 30 June 2023.

## Scope of the case

---

9. The complainant contacted the Commissioner on 24 September 2023, to complain about the way their request for information had been handled.
10. The Commissioner considers that the scope of his investigation is to ensure the Council provides the requested information.

## Reasons for decision

---

### Section 1 – general right of access

11. Section 1 of FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to them.

12. On 19 June 2023, the Council confirmed to the complainant that it was going to provide them with the requested information by 30 June 2023.
13. To date, the Council has still not provided the complainant with the requested information.
14. As the Council holds the information and has not provided it to the complainant, it has breached section 1(1) of FOIA.

### **Other matters**

---

15. The Commissioner reminds the Council that when it receives a request for information, it should respond promptly and within 20 working days. If information is held, this should also be provided within the timeframes set out in FOIA.

## Right of appeal

---

16. 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)

17. 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.
18. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**