

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: **3 December 2018**

Public Authority: **Royal Borough of Kingston upon Thames**
Address: **The Guildhall**
High Street
Kingston upon Thames
Surrey
KT1 1EU

Decision (including any steps ordered)

1. The complainant requested statistics relating to the number of information requests received, and responded to, by the public authority in 2017/18.
2. The Commissioner's decision is that the Royal Borough of Kingston upon Thames ("the Royal Borough") failed to respond to the request within 20 working days and has therefore breached section 10(1) of the FOIA.
3. The Commissioner requires the Royal Borough to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request pursuant to the provisions in section 1 of the FOIA.
4. The Royal Borough 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 22 August 2018, the complainant wrote to the Royal Borough and requested information in the following terms:

"Could you please provide me with the following information, or a link to where it is available:

FOIA/EIR statistics for 2017/18 showing the number of requests received and the numbers complied with within the statutory time limits.

Please indicate whether your statistics on the number of requests dealt with on time refer solely to requests answered in 20 working days, or whether they also includes those where a permitted extension was taken."

6. The Royal Borough acknowledged the request on 28 August 2018 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 17 October 2018 to complain about the failure, by the Royal Borough, to respond to the request.
8. In line with her usual practice, the Commissioner contacted the Royal Borough on 31 October 2018 to highlight the outstanding response. She requested that the Royal Borough respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The complainant contacted the Commissioner on 15 November 2018 to request a decision notice considering the Royal Borough's compliance with the FOIA.
10. The scope of this notice and the following analysis is to consider whether the Royal Borough has complied with section 10 of the FOIA.

Reasons for decision

11. Section 1(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.*

12. Section 8(1) of the FOIA 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.*

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

14. Section 10(1) 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.*"

15. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Royal Borough has breached section 10(1) of the 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: 0300 1234504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: 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

Terna Waya
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF