

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 March 2025

Public Authority: London Borough of Richmond Upon Thames
Address: Civic Centre
44 York Street
Twickenham
TW1 3BZ

Decision (including any steps ordered)

1. A public authority will breach section 17 of FOIA if it fails to issue a refusal notice within 20 working days. Based on evidence available to the Commissioner, the London Borough of Richmond Upon Thames (the Council) did not provide a refusal notice within the statutory time frame. Therefore the Commissioner finds a breach of section 17(5). The Commissioner also finds that the Council breached section 16 by failing to provide the complainant with advice and assistance.
2. The Commissioner does not require further steps.

Request and response

3. The complainant requested the following information from the Council on 31 March 2024:
4. "Please provide emails between [NAME REDACTED], Democratic Services Manager and the Monitoring Officer in connection with the following email sent to [NAME REDACTED] on 29/02/24:

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Tonight I made a courteous request to film the committee room only while I would be speaking for 3 minutes. The request was refused, I believe by yourself as committee Chair.

Please inform me on what grounds was my request refused?

Rule 26 of the Constitution says the following:

Audio / visual recording and photography at Council meetings is permitted in line with the Openness of Local Government Bodies Regulations 2014. This includes all reporting at all meetings which are open to the public."

5. The public authority acknowledged the request on 3 April 2024.
6. On 30 April 2024, the Council wrote to the complainant to advise that it required further time to carry out a public interest test in relation to the request, but did not cite an exemption. The Council provided the complainant with a reference number for their request.
7. On 22 May 2024 the complainant wrote to the Council to query why it had merged five of their requests under the reference number given.
8. On 22 May 2024 the Council responded to the complainant. It stated that it had aggregated the requests for the purpose of calculating the cost of compliance. The Council explained:

"As you will see, requests on the same or similar subject can be aggregated for the purpose of calculating costs under section 12 of the FOI Act. Similar mechanisms for aggregating requests exist where the burden multiple requests place on an authority result in those requests being deemed vexatious (under section 14 of the FOI Act).

For reference, I set out the information requests you have submitted regarding Pools on the Park from 19/01/2024 to 02/04/2024:

[REFERENCE REDACTED] 19/01/2024 Pools on the Park
[REFERENCE REDACTED] 07/02/2024 Pools on the Park
[REFERENCE REDACTED] 07/02/2024 Pools on the Park
[REFERENCE REDACTED] 22/02/2024 Emails
[REFERENCE REDACTED] 26/02/2024 Pools on the Park
Pools on the Park residents consultation on group
[REFERENCE REDACTED] 28/02/2024 exercise studio
[REFERENCE REDACTED] 18/03/2024 Pools on the Park Energy Audit
[REFERENCE REDACTED] 02/04/2024 Emails

In addition to the hours of officer time that has already been spent on responding to your information requests, the Council estimates it would take a further 25 hours to respond to the following two requests:

[REFERENCE REDACTED]
[REFERENCE REDACTED]

Please accept my apologies that I have been unable to obtain an estimate for [REFERENCE REDACTED]. This is being calculated and I will

follow up with the same, however – not least because of the delay already experienced – I wanted to get this response to you sooner, rather than later. The hours already spent over the 60-day period and the further hours that would be required to answer outstanding requests [REFERENCE REDACTED] [REFERENCE REDACTED] and [REFERENCE REDACTED] means that your requests relating to Pools on the Park have exceed the 18-hour (£450) cost limit under section 12(2) of the Freedom of Information Act 2000.

In accordance with the Freedom of Information Act, this email acts as a refusal notice.”

9. On 2 July 2024 the complainant requested an internal review. The complainant argued that the Council was incorrect to aggregate the requests and had misread the wording of the legislation. The complainant stated that aggregation is permitted where the requests are for the same or similar information, and not “the same or similar subject”, as asserted by the Council.
10. The Council acknowledged the complainant’s request for internal review the same day.
11. On 31 July 2024, the Council wrote to the complainant to advise that it required a further 20 working days to provide an internal review outcome.
12. On 29 August 2024 the Council wrote to the complainant to extend the time for providing an internal review outcome by a further 20 working days.
13. On 8 September 2024 the complainant contacted the Commissioner to complain about the Council’s handling of their aggregated requests. On 20 September 2024 the Commissioner accepted the case for investigation without requiring an internal review.
14. The complainant wrote to the Council a further three times in respect of the outstanding internal review.
15. On 24 October 2024, the Council wrote to the complainant to acknowledge their correspondence and advise that its solicitor was in the process of responding to the complaint he had raised with the Commissioner.
16. On 9 December 2024 the Commissioner wrote to the Council to request that it provide an internal review outcome in respect of the complainant’s outstanding requests that had been refused under section 12(2).

17. On 23 December 2024 the Council provided its internal review response. The Council changed its position to rely on section 14(1) to refuse six of the complainant's outstanding requests, including the request central to this notice.

Scope of the case

18. On 31 January 2025 the complainant provided their grounds of complaint in the following terms:

"I am not seeking a determination by the ICO on the refusal stated by LBRUT in the internal review response since I no longer believe the requested information will be of any value.

However, I am requesting that the ICO investigate this complaint on the grounds that LBRUT failed to properly handle my FOI request in accordance with the FOI Act and ICO guidance."

19. As the Council is no longer relying on section 12(2) to refuse the request the Commissioner will not be considering as part of this decision whether the Council was entitled to refuse the requests under this exemption. Similarly, as the complainant is no longer challenging the Council's reliance on section 14(1) to refuse the request, the Commissioner will not be considering as part of this decision whether the Council was entitled to refuse the requests under this exemption. The Commissioner considers that the scope of his investigation is to determine whether the Council complied with the procedural requirements set out in the act when responding to the request.

Reasons for decision

20. If a public authority is seeking to refuse to comply with section 1 on the basis of section 12 or section 14, then under 17(5) of FOIA it must issue a refusal notice to the requester, within 20 working days of the request, stating that fact.
21. The Commissioner finds that the Council breached section 17(5) of FOIA by failing to provide the complainant with such a refusal notice within 20 working days.
22. Section 16 of FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests.

23. When a public authority refuses a request on the grounds that the cost of compliance exceeds the appropriate limit, it must provide the requester with appropriate advice and assistance on how they may refine their request, in line with its duties at section 16.
24. The Commissioner finds that, at the point at which it was refusing the request with reliance on section 12(2) the Council breached section 16 of FOIA by not providing the complainant appropriate advice and assistance on how they may refine their request.

Other Matters

25. FOIA does not impose a statutory time within which internal reviews must be completed, however the section 45 Code of Practice¹ states that reviews should be completed within a reasonable timeframe. The Commissioner expects that most internal reviews should be completed within 20 working days, or 40 working days at an exceptional maximum².
26. In this case the Council took five months to complete its internal review. The Council states that this delay was caused by 'taking leave and stretched workloads'. While the Commissioner is aware that Councils face unique pressures which often result in an impact on service delivery, a delay of five months is unacceptable and demonstrates failures in the Council's request handling processes.

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

² <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/request-handling-freedom-of-information/#internal>

Right of appeal

27. 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

28. 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.
29. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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