

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 April 2014

Public Authority: London Borough of Hillingdon

Address: Civic Centre
High Street
Uxbridge
UB8 1UW

Decision (including any steps ordered)

1. The complainant has requested information relating to noise abatement notices served on a specified address.
2. The Commissioner's decision is that London Borough of Hillingdon has disclosed all of the available information. He notes however that some of the information was provided outside of the statutory time limit and therefore London Borough of Hillingdon breached section 10 of the FOIA.
3. The Commissioner does not require the public authority to take any further steps.

Request and response

4. On 15 September 2013 the complainant wrote to London Borough of Hillingdon and requested information of the following description:

"THE NUMBER AND DATES OF NOISE ABATEMENT NOTICES AND FINAL NOISE ABATEMENT NOTICES SERVED UNDER THE ENVIRONMENTAL PROTECTION ACT 1990 Part III Section 80 ON THE LONDON BOROUGH OF HILLINGDON COUNCIL TENANT OF [specified address] FROM JULY 1999 TO 15th SEPTEMBER 2013".

5. On 7 October 2013 London Borough of Hillingdon responded stating:

"I can confirm that there has been one noise abatement notice served upon the occupiers on 5th April 2013".

6. The complainant wrote further to the London Borough of Hillingdon on 11 October 2013 disputing the response. He received a reply on 14 October advising that records had been double checked and that the initial response was correct.
7. The complainant wrote again on 14 October 2013 requesting an internal review of the response.
8. The London Borough of Hillingdon responded on 1 November 2013. It upheld its original position.

Scope of the case

9. The complainant contacted the Commissioner on 6 November 2013 to complain about the way his request for information had been handled. Specifically the complainant disputed the amount of information provided by London Borough of Hillingdon. He supplied evidence that more information was held by London Borough of Hillingdon.
10. The Commissioner considers the scope of the investigation is to determine whether London Borough of Hillingdon holds any further information relevant to the request

Reasons for decision

11. Section 1(1)(a) and 1(1)(b) of FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
12. In considering cases such as this the Commissioner will consider whether, on the balance of probabilities, the requested information is held. In order to reach a decision on this the Commissioner will ask the public authority detailed questions as to the nature of the requested information and the searches it has carried out. He will then consider the context of the case, the nature of the requested information, the authority's responses, the arguments provided by the complainant and any evidence to suggest that the information in question is held.

13. The Commissioner wrote to London Borough of Hillingdon setting out a series of questions relating to searches undertaken to identify relevant information. He also enquired about supporting documentation supplied by the complainant in the form of an email from an official of London Borough of Hillingdon suggesting that a noise abatement notice had been served prior to 5 April 2013.
14. London Borough of Hillingdon, in its response to the Commissioner, stated that two former case management systems and its current case management system had been searched. The search was relevant as all cases of reported noise nuisance would be logged on one of these systems. Paper copies of notices which are still active are also retained and filed in date order; these records were also searched.
15. Electronic searches were conducted using relevant search terms under the fields 'property address'; 'name of property occupier' and 'name of complainant'. The same search terms were used when searching manually held data and this search also included 'date'.
16. In terms of the retention and deletion of relevant documents, London Borough of Hillingdon confirmed that documents relating to 'Investigations into Statutory Nuisances' are retained for a period of two years after the last action or five years following a prosecution.
17. In terms of the dates detailed in the request, London Borough of Hillingdon confirmed that the former case management system came into use in 2006.
18. With specific regard to the email suggesting a previous notice had been served, London Borough of Hillingdon confirmed that the email had been written following a verbal communication that an officer of the former Hillingdon Homes had said that a noise abatement notice may have been served in approximately 2006.
19. This evidence of a previous notice prompted a further search but no record of any previous noise abatement notice was located. In preparing its response to the Commissioner, London Borough of Hillingdon searched documents created by the former Hillingdon Homes which were held in the Housing Department. This search revealed documentary evidence of a noise abatement notice having been served on 25 August 2006. However, London Borough of Hillingdon was unable to locate a copy of the notice itself.
20. During the course of the Commissioner's investigation London Borough of Hillingdon wrote to the complainant offering an apology if the previous response had been misleading and advising that it had located further information relevant to his request, which it provided to him.

21. Having considered the submissions put forward by the complainant and the public authority, the Commissioner is of the view that no further information is held relevant to the scope of the request. However, London Borough of Hillingdon breached section 10(1) of the FOIA because it provided some of the requested to the complainant outside of the 20 working day timescale.

Other matters

22. The Commissioner notes that this request could have been resolved without his intervention if London Borough of Hillingdon had located the further information it held about a noise abatement order at an earlier stage. Although the complainant did not refer to the email evidence suggesting an earlier notice had been issued when making the request, it is the public authority's responsibility to ensure that appropriate and thorough searches are made when handling requests for information.

Right of appeal

23. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

24. 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.
25. 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

Alexander Ganotis
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