

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 10 September 2018

Public Authority: Hertsmere Borough Council

Address: Civic Offices
Elstree Way
Borehamwood
Hertfordshire
WD6 1WA

Decision (including any steps ordered)

1. The complainant has requested information from Hertsmere Borough Council about the current Hertsmere local plan, and in particular any documentation discussing or relating to the proposed garden village.
2. The Commissioner's decision is that Hertsmere Borough Council has breached section 10(1) of the 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 Hertsmere Borough Council to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA
4. Hertsmere Borough Council 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

5. On 4 April 2018, the complainant wrote to Hertsmere Borough Council (the Council) and requested information in the following terms:

"I would like to make a freedom of information request to you/ Hertsmere council. I would like copies of 'all documentation pertaining to, or relating to, the current Hertsmere local plan'. In particular any documentation discussing, or relating to, the proposed (London Colney) Garden Village. This request includes all meeting agendas and minutes and details of the market research methodology and results collected."

6. As no response was provided within 20 working days, the complainant wrote to the Council on 24 May 2018 and on 22 June 2018 to chase a response. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 29 May 2018 to complain about the failure by the Home Office to respond to his request.
8. The Commissioner has considered whether the Home Office has complied with its obligations in relation to the time for compliance at section 10(1) of the FOIA.

Reasons for decision

9. 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.

10. Section 10(1) of the 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."
11. On 7 August 2018 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention the Council has failed to respond to the complainant.

13. From the evidence provided to the Commissioner in this case, it is clear that Hertsmere Borough Council did not deal with the request for information in accordance with the 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 the 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: 0300 1234504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF