

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 October 2018

Public Authority: Arun District Council
Address: Civic Centre
Littlehampton
West Sussex
BN17 5LF

Decision (including any steps ordered)

1. The complainant has requested information about the analysis of a public consultation from Arun District Council ("the Council"). The Council directed the complainant to where some information was publicly accessible, and advised that no further relevant information was held.
2. The Commissioner's decision is that no further relevant information is held by the Council besides that already publicly accessible.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 11 March 2018, the complainant wrote to the Council and requested information in the following terms:

At Full Council on 10th January 2018, Cllr [redacted name] said that there had been "overwhelming approval" of the Council's Hothamton Linear Park proposals expressed by the public via the Consultation carried out on 13th October 2017.

I wish to understand precisely where [redacted name] obtained the figures showing this "overwhelming approval" and what those figures were. The information provided on pages 31 to 33 of your Bognor Regis Regeneration Sub-Committee agenda for its 14th December 2017 meeting is entirely inadequate, vague and contradictory for this purpose, for example not even conclusively indicating how many people actually responded. I should be grateful therefore if you would supply me with the following information:

1. How many paper response forms were received by the Council?

2. How many online response forms were received by the Council?

3. In the agenda Pie charts, there were 9 'gender not given' and 21% 'distance travelled not disclosed' which indicates postcode not given, since the question is not asked elsewhere. This shows that the "your details" box was not properly completed by some people. How many response forms did not disclose the person's name?

4. If a name wasn't given, was the response form counted in the results?

5. The 'who attended' pie chart shows 56 attendees and the 'what gender' pie chart shows 61 attendees. Which is correct and please explain the difference?

6. What measures were taken to ensure that more than one response form was not completed by one person giving different and/or false names?

7. The agenda pie chart shows 378 website visits. How many of these were single unique visits, and how many were repeat and/or multiple visits?

8. Does the Council have any means of knowing whether those website visitors were also attendees at the exhibition? If so, what were the figures?

- 9. In the bar charts on page 33 of the agenda each bar of each question appears to represent an overall view of the number of forms (or individual responses) providing the comment the bar is set against. This is because the total number of responses to each question varies from 56 (Q3) to 70(Q2) which vaguely correlates to the 'who attended' pie chart (56) and 'what gender' pie chart (61). Is this correct, or is it that random multiple comments from a few response forms have been selectively extracted for these bar charts?*
- 10. Many of the comments against which the bars are set are unclear as to whether they are favourable or critical of the proposal, e.g. Q1: 'other facilities' or Q3: 'use of space'. Please let me know which bars in which question [redacted name] has interpreted to be 'approval' and give more detail so that I can understand why this is so.*
- 11. The Council must have created one or more analysis document(s) to provide the results to inform the pie and bar charts in the agenda. Please supply copies of any documents created or used for this purpose, together with copies of any internal or external letters or emails to/from or received by [redacted name] or [redacted name] between 13.10.17 and 11.1.18, whether signed or not, which include comments related to these results.*
- 12. Please supply any other information on which [redacted name] may have relied for her "overwhelming approval" comment, so that I may understand what that comment was based on.*
- 13. Does the Council still hold the response forms from the public and how long will it continue to hold them? Can they be available in redacted form (ie showing reverse side only) for inspection by myself?*
- 14. If there is any information which the Council does not have, please will you clearly say so.*
5. The Council responded on 4 April 2018. It provided responses to each of the questions, with the exception of question 10 (which it stated was not a valid request), and question 11 (to which it stated that no information was held).
6. Following an internal review the Council wrote to the complainant on 10 May 2018. It referred the complainant to some (publicly accessible) information in respect of question 10, and maintained that no information was held in respect of question 11.
7. Following further correspondence from the complainant, the Council wrote to the complainant again on 17 May 2018. It referred to the complainant to further (publicly accessible) information in respect of

question 10, and maintained that no information was held in respect of question 11.

Scope of the case

8. The complainant contacted the Commissioner on 25 May 2018 to complain about the way his request for information had been handled, and specifically that the Council had failed to fully respond to questions 10 and 11.
9. The Commissioner considers the scope of this case to be the determination of whether the Council holds recorded information in respect of questions 10 and 11 that is not already publicly accessible to the complainant.

Reasons for decision

Section 1 – General right of access to information

10. Section 1(1) of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
11. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.

Context

12. A public consultation survey about proposed changes to Linear Park was undertaken by the Council on 13 October 2017. The survey responses were turned into a report by a consultant (which included pie and bar charts to summarise the survey responses), and the report was subsequently provided to the Council for consideration by the 'Bognor Regis Regeneration Sub-Committee' on 14 December 2017.

13. On 10 January 2018 a Full Council meeting was held¹, as part of which there was a public question time in which members of the public could ask questions to Councillors. One such question related to the public consultation survey (and subsequent report), to which the responsible Councillor stated there was "*overwhelming support*" for the proposed changes to Linear Park.

Question 10

14. This part of the request seeks an explanation about which parts of the report the Councillor based their statement on.
15. The complainant has informed the Commissioner that he considers there must be a "*factual basis*" on which the Councillor made a clear statement about public approval, and he wishes the Council to state "*which bars in which question of the consultant's report*" the Councillor relied upon.
16. The Council has informed the Commissioner that it has referred the complainant to all recorded information that it considered to be relevant, and which is already publicly accessible. This information comprises an earlier consultation report from 2015 (which the Councillor has advised they based their statement of "*overwhelming support*" upon), the report of 2017, and the record of the Full Council meeting of 10 January 2018 in which the Councillor made the statement.
17. The Council has questioned the Councillor in respect of whether she holds any recorded information, such as notes, on which the statement was based. The Councillor has confirmed that they created no such records, and that the statement was based on their understanding of the earlier consultation report of 2015.

The Commissioner's conclusion

18. The Commissioner understands that the statement was based on the Councillor's own understanding of published information, and that no notes or other records were created before making that statement.
19. The Commissioner further understands that the complainant does not appear to contest that further recorded information must be held, but instead, argues that the Council should explain the basis of the Councillor's statement.

¹ The minutes of which can be accessed at: <https://www.arun.gov.uk/full-council>

20. The Commissioner emphasises that the FOIA only provides a right of access to information held in recorded form; it does not provide a right to explanation (or justification) of a certain action. In the circumstances of this case the Councillor has made a statement based on their understanding of a specific document; the complainant has been referred to that specific document (the 2015 report), as well as other related documents (the 2017 report, and the record of the meeting on 10 January 2018). There is no evidence to suggest that further recorded information is held, and in the absence of such there is no requirement under the FOIA for the Council to create it in order to respond to the question.
21. The Commissioner has therefore concluded that the Council does not hold any further recorded information besides that which the complainant has already been directed to.

Question 11

22. This part of the request seeks any analysis documents that informed the pie and bar charts contained in the survey report, and specifically any related correspondence involving two named officers.
23. The complainant has informed the Commissioner that he considers there must have been some interpretation of the survey responses before being turned into a report; this is because the survey questions are non-specific and seek 'views' rather than specific answers. The complainant believes that there must have been some communications deriving from the two council officers that informed the consultant when creating the report.
24. The Council has informed the Commissioner that, besides the charts contained in the publicly accessible survey report, no further recorded information such as preliminary analysis or correspondence is known to be held. The contents of the pie and bar charts represents the total analysis of the survey responses.
25. A search of the two officer's emails (including deleted) has been undertaken within the date range of 13 October 2017 to 11 January 2018, using the terms 'analysis documents', 'Linear Park', 'Urban Delivery' (the Council's consultants), 'pie', 'chart', and the names of the Councillor who made the statement, their assistant, and the complainant.
26. The two officers have also confirmed that no relevant meetings were held and associated records created.

The Commissioner's conclusion

27. The Commissioner considers that the Council has provided a cogent explanation of the steps it has undertaken to search for any relevant held information. These steps have included specific keyword searches of emails held by the two officers, and the questioning of the two officers as to whether any relevant meetings were held.
28. The Commissioner has also reviewed both the public survey questions and the pie and bar charts contained in the survey. Having considered the detail of the latter (which records the number of times a specific view or subject has been raised in a survey response), the Commissioner finds it reasonable to accept the Council's position that the charts represent the total analysis of the survey.
29. The Commissioner has therefore concluded that the Council does not hold any further recorded information besides that which the complainant has already been directed to.

Right of appeal

30. 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

31. 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.
32. 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
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