

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2022

Public Authority: City of York Council

Address: West Offices
Station Rise
York
YO1 6GA

Decision (including any steps ordered)

1. The complainant requested information from City of York Council ("the Council") about the costs related to the publication and distribution of a 10-page survey they had received. The Council explained that as it could not identify the 10-page survey the complaint was referring to, it could not provide the requested information.
2. The Commissioner's decision is that the Council has complied with its obligations under section 16(1) of FOIA to provide adequate advice and assistance to the complainant.
3. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

4. On 24 June 2022, the complainant wrote to the Council and requested information in the following terms:

"I have recently received a survey on behalf of the council, which is a replica of those I have completed several times in the past.

However, it would seem that the council take little regard of these surveys and I would like to enquire just what this survey, including two

way postage, has cost the council and ultimately the council tax payer, such as myself.

So can you please investigate, or pass this letter on to whoever can answer this question and let me know the total cost of this.”

5. The Council requested clarification on 14 July 2022 regarding the title and subject matter of the survey. The complainant responded as follows:

“You have asked me to be specific about the subject matter and the title; however, as I returned this document without completing it I cannot remember what it was called only that it was asking questions such as where did I think priority should be given to, in such fields as child care, old peoples care, roads or education. The rest of the questions were of this ilk, but if you check I think you will find that there has only been one such document sent out in June. It was from a third party who the council must employ and if you live in the area, which I would assume you do, you will have received one of these questionnaires yourself, or did you throw it in the bin as many of my friends have done?”

6. The Council responded on 26 August 2022 advising that the requested information was not held. It provided some information and a cost estimate for an annual budget survey that was included in the Our City magazine but explained that as the survey was included in an existing publication it could not isolate the exact costs and therefore it did not hold the requested information.
7. The complaint requested an internal review on 4 September 2022 explaining that the survey they were enquiring about was not included in the Our Survey magazine and may have been sent out by an external party on the Council’s behalf.
8. The Council carried out an internal review on 27 September 2022 and explained that unless the complainant could provide a copy of the survey or more detail about its contents it could not identify the survey in question and therefore could not provide the requested information.
9. To date the complainant has not provided sufficient clarification of their request.

Scope of the case

10. The complainant contacted the Commissioner on 12 October 2022, to complain about the way their request for information had been handled.
11. The Commissioner has considered whether the Council has complied with its obligations in relation to providing advice and assistance, at section 16(1) of FOIA.

Reasons for decision

Section 16 – advice and assistance

12. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to him or her if it is held and is not exempt information.
13. Under section 1(3) of FOIA, where a public authority (a) reasonably requires further information in order to identify and locate the information requested, and (b) has informed the applicant of that requirement, the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.
14. Section 16(1) of FOIA places a duty on a public authority to offer an applicant advice and assistance as far as it would be reasonable to expect the authority to do so. That duty extends to occasions when a request is not clear enough to adequately describe the information sought by the applicant in such a way that the public authority can conduct a search for it. In these cases, public authorities may ask for more detail to enable them to identify the information sought. A public authority cannot carry out a search for requested information if it does not understand what recorded information is being sought.
15. The Commissioner has considered whether there was more than one objective reading for this request. Public authorities should seek clarification when a request has more than one objective reading. From the information provided, the Commissioner can see that the Council did attempt to obtain clarification and did provide some information about a budget survey it had issued, but this was not the survey the complainant was referring to. The Commissioner considers therefore that the request in question was not written clearly and therefore had more than one objective reading.

16. In this case, the Council advised the complainant that if they clarified their request, it would be able to respond to their request for information. The Council asked the complainant to provide a copy of the survey or more detail about its contents. Without the clarification the Council could not identify the survey that the complainant was referring to in their request.
17. The Commissioner considers that the advice and assistance the Council offered the complainant was adequate. The Commissioner is therefore satisfied that the Council has complied with its obligations under section 16(1) of FOIA in its handling of this request.

Right of appeal

18. 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

19. 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.
20. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF