

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 October 2018

Public Authority: Electoral Office for Northern Ireland

Address: info@eoni.org.uk

Decision (including any steps ordered)

1. The complainant has requested information from the Electoral Office for Northern Ireland ("EONI") regarding the Electoral Authorities Act 1989. The EONI stated that it does not hold any recorded information within the scope of the complainant's request.
2. The Commissioner's decision is that on the balance of probabilities, the EONI does not hold any recorded information relevant to the complainant's request.
3. Therefore the Commissioner requires no steps to be taken.

Request and response

4. On 8 and 28 September 2017, the complainant wrote to the EONI and requested information in the following terms:

"Under the FOI Act why has the "Elected Authorities Act 1989" not applied here?"

"I take it that according to your letter of 13/09/2017 that the Elected Authorities Act 1989 has not been applied here at any time?"

If not why not?

Who oversees this department?

Sinn Fein and other candidates running for election to renounce terrorist violence not to support it or approve etc.”

5. The EONI responded to the complainant's requests on 13 September 2017 and 24 October 2017 respectively. It stated that it did not hold information within the scope of the complainant's requests and was not aware of any other department which would hold such information.

Scope of the case

6. The complainant contacted the Commissioner on 31 October 2017 to complain about the way his request for information had been handled.
7. The Commissioner wrote to the EONI seeking its detailed submissions on 26 July 2018. The EONI responded to the Commissioner on 20 August 2018, providing its submissions as to it not holding any recorded information within the scope of the complainant's requests.
8. The Commissioner has considered whether the EONI has complied with section 1(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. In scenarios where there is some dispute between the public authority and a complainant as to whether the information requested is held by the public authority, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of proof, which is the balance of probabilities.
11. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a

public authority holds any information which falls within the scope of the request (or was held at the time of the request).

12. The Commissioner wrote to the EONI for its explanation of the efforts made by it to locate information falling within the scope of the complainant's requests. The Commissioner's questions were focused on the EONI's searches conducted in relation to the complainant's request, and whether any of the information falling within the scope of the requests was held at one time but either deleted or destroyed.
13. The EONI informed the Commissioner that a search of legislation folders on its computer system for "Elected Authorities Act 1989" brought up the legislation and no other documents. A search of the EONI electronic records management system (TRIM) for "Elected Authorities Act 1989" brought up no results. A search for "declaration against terrorism" on TRIM brought up the 'Declaration Against Terrorism' form, an email from a Council confirming receipt of a declaration against terrorism from a councillor and two copies of declarations received by Councils. No information was found relating to candidates breaching the declaration against terrorism.
14. The EONI informed the Commissioner that, if such information were held, it would be held electronically, and that it had searched its computer systems and the TRIM system, using the search terms "Elected Authorities Act 1989" and "Declaration Against Terrorism."
15. The EONI also informed the Commissioner that, in March 2018, all legislation information held by the EONI was moved to TRIM and marked "Retain Permanently." There are no statutory requirements for the EONI to hold recorded information within the scope of the complainant's request.
16. Whilst the Commissioner recognises that the complainant does not consider that the EONI has fulfilled the requests, the EONI has provided a clear explanation of the searches that underlay its responses. No evidence is available to the Commissioner which would indicate that the EONI's searches were insufficient, or that it holds recorded information falling within the scope of the requests.
17. In light of the above, the Commissioner is, on the balance of probabilities, satisfied that the Council identified all information it holds that falls within the scope of the complainant's requests. The Commissioner's decision is, therefore, that the Council has complied with section 1(1) of the FOIA.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Deirdre Collins

Senior Case Officer

Information Commissioner's Office

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Wilmslow

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SK9 5AF