

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 April 2023

Public Authority: East Riding of Yorkshire Council
Address: County Hall
Beverley
East Riding of Yorkshire
HU17 9BA

Decision (including any steps ordered)

1. The complainant requested information from East Riding of Yorkshire Council (the Council) about work done by an external consultant.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold further information within the scope of the request. However, he finds that the Council breached section 10(1) (time for compliance) of FOIA by failing to provide a valid response to the request within the statutory timeframe of 20 working days.
3. No steps are required as a result of this decision.

Request and response

4. On 8 November 2022, the complainant wrote to the Council and requested information in the following terms (numbers added for ease of reference):

"Under (Freedom of Information act) I would like to request the following information:

1. When did the local Authority bring in the external consultant [name of consultant redacted]
 2. What work did [name of consultant redacted] undertake
 3. How long was [name of consultant redacted] working in the Local Authority
 4. How much was spent on [name of consultant redacted] consultancy service
 5. What was the outcome of [name of consultant redacted] consultancy service
 6. Could I have a copy of all the reports submitted from [name of consultant redacted] to the Local Authority / Board meetings /elected members / officers. I understand that due to confidentiality that names will be redacted".
5. Following the Commissioner's intervention, the Council provided its substantive response on 18 January 2023. It provided a response to each part of the multi-part request.
 6. Following an internal review, the Council wrote to the complainant on 20 February 2023. It confirmed that responses had been provided to parts 1-5 of the request on 18 January 2023. Regarding its response to part 6 of the request, it clarified that it had provided a link to the Board's minutes and that a copy of the requested report was attached to those minutes.
 7. The complainant remains dissatisfied with the Council's handling of the request.
 8. The following analysis explains why the Commissioner is satisfied, on the balance of probabilities, that the Council does not hold further information within the scope of part 6 of the request.

Reasons for decision

9. Section 1 of 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 such as this, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.
11. The Commissioner acknowledges that the complainant has concerns about the amount of recorded information in scope of part 6 of the request.
12. The Commissioner notes that the Council acknowledges those concerns. Regarding the reports submitted from the external consultant, it confirmed that the written report given to the meeting on 21 July 2022 is the only written report. It further explained that verbal updates were given and that details of these were recorded in the minutes on 29 April, 9 June and 15 September 2022.
13. When, as in this case, the Commissioner receives a complaint that a public authority has not disclosed some or all of the information that a complainant believes it holds, it is seldom possible to prove with absolute certainty that the public authority holds no further relevant information. However, the Commissioner is required to make a judgement on whether further information is held on the civil standard of the balance of probabilities.
14. Based on the evidence provided to him, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold further information falling within the scope of part 6 of the complainant's request.
15. He is therefore satisfied that the Council has complied with the requirements of section 1 of FOIA in this case.

Procedural matters

16. Section 10(1) of 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”.
17. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with FOIA. The Commissioner finds that the Council breached section 10(1) by failing to respond to the request within 20 working days.

Other matters

18. During the course of his investigation, the Council explained that, having reviewed its handling of requests, it has implemented changes to improve its processes.
19. The Commissioner welcomes this approach.

Right of appeal

20. 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

21. 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.
22. 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

Laura Tomkinson
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