

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 May 2023

Public Authority: Ribble Valley Borough Council
Address: Council Offices
Church Walk
Clitheroe
BB7 2RA

Decision (including any steps ordered)

1. The complainant requested information from Ribble Valley Borough Council ("the Council") relating to wells in Clitheroe. The Council has disclosed some information in response to the request, however the complainant believes the Council holds further information within the scope of parts 2, 3 and 6 of the request.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any further information within the scope of parts 2, 3 and 6 of the request, beyond that which it has already disclosed. However, the Commissioner has found that the Council breached section 10(1) of FOIA by failing to provide a full response to the request within the statutory time frame of 20 working days.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 8 July 2021, the complainant wrote to the Council and requested information in the following terms:

"1. Details of the additional insurance cost to the Council, following the First Registration by the Council of Stock Well, in July 2019.

2. Access to view, and where necessary copy/record, the Council's records of all financial expenditure on Stock Well, Heild Well and St. Mary's Well from April 1974 until the present date.

3. The legal basis for the Council's claim that any further applications to The Land Registry would be 'deceitful, unlawful and illegal'.

4. Confirm when the Campaign's paper's supporting our 're-presented case' - need to be submitted,

5. Indicate the dates when the Meeting Agenda will be published, and

6. Confirm when the Council's own reports and recommendations will be available for consideration by the Public."

5. The Council denied holding the information requested in part 1 of the request and provided some information within the scope of parts 2 to 6 of the request.
6. The complainant requested an internal review, stating that they believe the Council holds further information within scope of parts 2, 3 and 6 of the request. The final position of the Council was that no further information was held.
7. On 2 December 2022 the Commissioner issued a Decision Notice under case reference IC-145576-P8V7 regarding the Council's handling of the request. His decision was that he was not satisfied that, on the balance of probabilities, the Council did not hold further information within the scope of the request. He required the Council to issue a fresh response to the request following searches aimed at identifying all the information held within the scope of the request within 35 calendar days.
8. On 13 January 2023 the Council issued a fresh response to the request. It disclosed one further email within the scope of part 3 of the request.
9. The complainant made a complaint to the Commissioner regarding the fresh response, stating that they still believe that the Council holds further information within the scope of parts 2, 3 and 6 of the request.

Scope of the case

10. During the course of the Commissioner's investigation the Council identified and disclosed some further information that it held within the scope of part 2 of the request.
11. The scope of this case is to consider whether the Council holds any further information within the scope of parts 2, 3 and 6 of the request, beyond that which it has already disclosed.
12. This notice will also address the late disclosure of the further information held within the scope of part 2 of the request which was disclosed during the course of the Commissioner's investigation.

Reasons for decision

Section 1(1) – Duty to provide information held

13. Section 1(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.”

14. The Council's position is that it has now disclosed all of the information it holds within parts 2,3 and 6 of the request. The complainant disputes this.
15. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner must decide whether on the balance of probabilities a public authority holds any further information which falls within the scope of the request (or was held at the time of the request).
16. This reasoning covers whether, on the balance of probabilities, the Council holds further information within the scope of parts 2,3 and 6 of the request.

17. In the course of his investigation the Commissioner asked the Council to provide details about the searches it had carried out to identify information within the scope of parts 2, 3 and 6 of the request. From the information provided by the Council, the Commissioner is satisfied that the Council has now carried out appropriate searches likely to identify all of the information within the scope of parts 2, 3 and 6 of the request.
18. The Commissioner also asked the Council to address specific points raised by the complainant regarding their reasons for believing that further information was held within the scope of parts 2, 3 and 6 of the request.
19. Regarding part 2 of the request, the Commissioner asked the Council to address the fact that the complainant believes more detailed records would be held. As a result, during the course of the investigation the Council identified further information within the scope of this part of the request and this was disclosed. The Council has confirmed that all information on expenditure is held in the Council's electronic financial system and that this system has been searched by a Senior Accountant who used the dedicated financial code used for the wells to carry out the search. The Council also stated that some records that would have been in scope of the request if still held at the time of the request would have been deleted after six years in line with the Council's retention policy.
20. Regarding part 3 of the request, the Commissioner asked the Council to address the fact that the complainant believes that the Council holds further information within the scope of this part of the request which relates to an "external legal review" they understand was commissioned by the Council. The Council has confirmed that it does not hold any records of external legal advice or opinion being sought before the statement quoted in part 3 of the request was made at a Committee in 2019 and that it considers the email which it disclosed in the fresh response to the request to be the legal basis of the statement made as it was provided to the Head of Community Services shortly before the committee meeting at which the statement was made in 2019.
21. Regarding part 6 of the request, the Commissioner asked the Council to address the fact that the complainant believes the information disclosed is not the information they were seeking. Specifically, the Commissioner asked the Council to confirm whether it had any plans to produce any further reports/ recommendations beyond those it had referred to in its response to the complainant. The Council confirmed that, "the Council operates a committee decision. Officers take reports to Committee setting out the facts, issues and their advice to Committee. Committee then take decision based upon this. Those reports are all on the Council's website as well as the minutes of those meetings" and that there were no plans to produce any further reports/ recommendations.

22. The Commissioner is satisfied that, given the explanations provided by the Council as to why information the complainant believes to be held is not held and about the searches it has carried out, that on the balance of probabilities, the Council does not hold any further information within the scope of parts 2, 3 and 6 of the request.

Section 10 - Time for compliance with request.

23. Section 1(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.”

24. 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”.
25. 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 has breached section 10(1) by failing to disclose all of the requested information within 20 working days.

Right of appeal

26. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

27. 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.
28. 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

Victoria James
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF