

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 March 2024

Public Authority: Guildford Borough Council
Address: Millmead House
Guildford
GU2 4BB

Decision (including any steps ordered)

1. The complainant has requested specific information about a 'Domestic Homicide Report' that was commissioned by the Safer Waverly Partnership. Guildford Borough Council ("the Council") responded that it did not hold the requested information.
2. The Commissioner's decision is that the information is not held.
3. The Commissioner does not require further steps.

Request and response

4. On 19 April 2023, the complainant wrote to the Council and requested information about who supplied certain information contained in a 'Domestic Homicide Report' that was commissioned by the Safer Waverley Partnership. The Commissioner has not replicated the request here as it relates to identifiable individuals.
5. The Council responded on 27 June 2023. It stated that the information was not held by it. It explained that the report was commissioned by the Safer Waverley Partnership.
6. Following an internal review, the Council wrote to the complainant on 4 September 2023. It confirmed that the requested information was not held, and that the complainant may wish to contact Waverley Borough Council in respect of specific concerns they had.

Scope of the case

7. The complainant contacted the Commissioner on 21 November 2023 to complain about the way their request for information had been handled, and specifically that they disputed the Council's position that no information was held.

Reasons for decision

Section 1 – General right of access to information

8. 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 them if it is held and is not exempt information.
9. 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, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
10. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).
11. The Commissioner has reviewed the Council's response and internal review outcome.
12. From these, the Commissioner understands that the Council has stated that it does not hold the information, and that the report was commissioned by the Safer Waverley Partnership.
13. The Commissioner notes that the Safer Waverley Partnership is a separate entity to the Council, and is a statutory partnership of organisations "who work together to create strategies and practical

interventions to reduce crime, disorder and anti-social behaviour in Waverley.”¹

14. The Commissioner further understands that a Council officer (the then Head of Housing) acted as the Independent Chair of the review panel, but that any work they undertook in this role was on behalf of the Safer Waverly Partnership, and not the Council.
15. The Commissioner recognises that officers may undertake work for other entities. One example that the Commissioner is aware of is that of 'Local Child Safeguarding Boards'². Whilst officers may undertake such work, this does not mean that such work is on behalf of the Council, or that the information they create is held for the Council's own purposes.
16. Having considered the above, there is no evidence available to the Commissioner that suggests the information is held by the Council. The requested information relates to actions taken by the separate entity, and the Commissioner would not reasonably expect the Council to hold the information for its own purposes.
17. Having considered all the circumstances, the Commissioner therefore accepts the Council's position that it does not hold the information. As such, the Commissioner has decided that the Council has complied with section 1(1) of FOIA.

¹ <https://www.waverley.gov.uk/Portals/0/Documents/services/benefits-and-support/crime%20and%20safety/SWP%20Partnership%20Plan%202022-2025%20for%20website.pdf?ver=2cNYdDA1MPgg95tgoETSVw%3d%3d>

² https://ico.org.uk/media/action-weve-taken/decision-notices/2016/1624760/fs_50611001.pdf

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.

Daniel Perry
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