

Freedom of Information Act 2000 (FOIA)

Decision Notice

Date: 26 November 2024

Public Authority: Bournemouth, Christchurch and Poole Council

Address: Civic Centre
Bournemouth
BH2 6DY

Decision (including any steps ordered)

1. The complainant requested information from Bournemouth, Christchurch and Poole Council ("the Council") relating to its finances and assets. The Council disclosed some information within the scope of the request but refused to provide information falling within the scope of part 2.4 of the request citing section 12(1) (cost limit) of FOIA as its basis for doing so.
2. The Commissioner's decision is that the Council is entitled to rely to section 12(1) of FOIA to refuse to provide information within the scope of part 2.4 of the request. He also finds that the Council met its obligations under section 16(1) of FOIA to offer advice and assistance.
3. The Commissioner finds that on the balance of probabilities the Council does not hold further information within the scope of the remainder of the request which has not been disclosed to the complainant.
4. The Commissioner does not require the Council to take any steps.

Request and response

5. On 25 September 2023, the complainant wrote to the Council and requested information in the following terms:

"I shall be grateful for copies of the following recorded information held by the Council to be sent to my above email address in a legible non-encrypted form.

1. Regarding the monetary amounts of "Derecognition - Other" items at "Cost or Valuation" (not Derecognition - disposals) shown in BCP's published annual Statement of Accounts as contained in the analysed columnar note for "Property, Plant and Equipment" supporting the Group balance sheet totals for each of the separate financial years ended on 31 March to date viz 2020, 2021, 2022 (currently draft), 2023 (currently draft):
 - 1.1 The reconciled monetary totalled schedules detailing all recorded information for the individual asset items derecognised in each year under the applicable separate columnar headings in the Group balance sheet notes; including for example where known the information as to specific asset description and amount, date of asset derecognition, reason for asset derecognition, the asset's original council ownership pre the BCP unification commencing on 1 April 2019 where applicable ie Bournemouth or Christchurch or Poole.
2. Regarding the details and monetary amounts of all Property, Plant and Equipment fixed assets differences (ie discrepancies) identified as arising between the original capitalised entries on the main ledger accounting system (eg Oracle 'Fusion') on comparison with the other records maintained for fixed assets (ie spreadsheets or otherwise) in respect of each of the separate financial years ended on 31 March to date viz 2020, 2021, 2022 (currently draft), 2023 (currently draft):
 - 2.1 If not included in and identified separately as such in 1.1 above, the full recorded details and totals of asset values in respect of each annual accounting adjustment/(s) arising from a reconciliation of the costs/valuations originally recorded as capitalised in the main ledger accounting system in comparison with the other forms of fixed assets records utilised for

"accounting purposes" (eg the "spreadsheets" as first disclosed in Issue 5 of the Annual Governance Statement for 2020/21)*; distinguishing in that comparison between assets written-off where established as not physically existing and conversely assets introduced into the annual financial Statement of Accounts by reference to the non-ledger system forms of fixed assets records such as spreadsheets, sub-analysed in each case as to the individual asset items or where not known the en bloc total values and corresponding descriptors.

- 2.2 Where under 2.1 above fixed assets have been introduced into the annual financial Statement of Accounts by reference to forms of fixed assets records other than those originally capitalised in the main ledger accounting system (at cost of valuation), the details and monetary totals of such individual assets not known to have been physically verified as existing at the respective balance sheet dates.
- 2.3 Regarding all fixed assets "other" derecognitions adjustments (at cost or valuation) as noted in 2.1 and 2.2 above, the specific individual annual Statement of accounts captions (viz capital or revenue reserves or annual income and expenditure) under which each of those adjustments has been entered, showing whether debit or credit in effect ie the individual accounts reciprocal to the balance sheet accounts, identifying for the purposes of this FOI request the total monetary amount in respect of each stated account caption reconciled in total to the equal and opposite balance sheet adjustments, sub-analysed further in total as between identified individual asset derecognitions and any unidentified accounting discrepancy adjustments as defined earlier above.
- 2.4 If not clearly identified as such by total monetary amount and specific description in the information provided for the above requested items, the full recorded details of the discrepancies arising between the "spreadsheets", together with any other manual records maintained by BCP for fixed assets, and "the subsidiary systems that provide other asset management information" (as first disclosed in Annual Governance Statement Issue 5 for 2020/21)*. Showing –

- (a) Copies of each form of "other asset management information" at summary monetary total level for every financial year end to date or - if not prepared at every financial year end - as prepared at the latest interim date prior to the year end; providing in each case the descriptive title of the information and the fullest recorded format details including fixed asset types.
 - (b) Copies of BCP's recorded reconciliation processes carried out in respect of each of the "other management information" types per (a) above at the annual/interim stages in comparison with the separate spreadsheets together with any other manual records maintained by BCP, showing the fullest recorded details; including the total monetary discrepancies arising between those two separate fixed assets data sources sub-analysed by asset type."
6. The Council responded on 23 October 2023 and provided the complainant with information within the scope of the request. On 18 December 2023 the complainant requested an internal review.
7. The Council provided the complainant with the outcome of its internal review on 17 January 2024 in which it disclosed further information within the scope of the request. However, the Council also refused to provide information falling within the scope of part 2.4 of the request stating that to do so would take in excess of 18 hours and would place an unnecessary burden on Council resources.

Scope of the case

8. Following receipt of the Council's internal review response, the complainant contacted the Commissioner to complain about the way their request for information had been handled. The complainant stated that they considered the Council to hold further information within the scope of their request which had not been disclosed to them.
9. During the course of the Commissioner's investigation the Council provided the complainant with further information within the scope of the request. However, it also confirmed to the Commissioner that it was relying on section 12(1) (cost limit) of FOIA to refuse to provide information falling within the scope of part 2.4 of the request.

10. Therefore, in this notice the Commissioner will consider whether the Council is entitled to rely on section 12(1) of FOIA to refuse to provide information within the scope of part 2.4 of the request. He will also consider whether the Council holds further information within the scope of the remainder of the request which has not been disclosed to the complainant.

Reasons for decision

Section 12 – cost of compliance

11. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit. The appropriate limit for public authorities such as the Council is £450. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 18 hours for the Council.
12. A public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held
 - locating the information, or a document containing it
 - retrieving the information, or a document containing it
 - and extracting the information from a document containing it
13. A public authority does not have to make a precise calculation of the costs of complying with a request; instead, only an estimate is required. However, it must be a reasonable estimate. In accordance with the First-Tier Tribunal decision in the case of *Randall v IC & Medicines and Healthcare Products Regulatory Agency EA/20017/00041*, the Commissioner considers that any estimate must be “sensible, realistic and supported by cogent evidence”. The task for the Commissioner in a section 12 matter is to determine whether the public authority made a reasonable estimate of the cost of complying with the request.

The Council’s position

14. In its submissions to the Commissioner, the Council stated that information falling within the scope of part 2.4 of the request is not held centrally. Instead, it is held by several service areas in multiple systems

and spreadsheets. Therefore, the Council explained that in order to provide the information it holds that falls within the scope of part 2.4 of the request, it would need to search for background information relating 1636 lines of asset data. This comprises of 707 lines of infrastructure data and 929 lines of vehicle, plant and intangible data.

15. The Council stated that due to the number of records that would need to be searched it has not conducted a sampling exercise. However, it estimates that it would take approximately 15 minutes to locate, retrieve and extract information relating to each line of data. Therefore, in total the Council has calculated that it would take 409 hours or £10,225 to provide information relating to all 1639 lines of data (1636 lines of asset data x 15 minutes = 409 hours).
16. The Council explained that its estimate of 409 hours only reflects the amount of time that it would take to provide information relating to one year of asset data. The Council therefore considers that as the complainant has requested information relating to four years, it would take significantly longer than 409 hours to provide all the information it holds within the scope of part 2.4 of the request, specifically four times longer.

The Commissioner's position

17. The Commissioner notes that the Council has stated that in order to provide information within the scope of part 2.4 of the request it would need to search for background information relating to 1639 lines of data. However, the explanation provided by the Council to the Commissioner for its cost estimate lacked detail, including on why the tasks it described would be necessary to carry out in order to comply with the complainant's information request. The Commissioner has taken this weakness in the representations from the Council into account when making his decision here.
18. The Commissioner has also taken into account the approach taken by the complainant in their information request. That approach was to describe the information requested in an extraordinarily detailed way, meaning that understanding the parameters of that request was likely to have been a challenge for the Council. More importantly here, it means that part 2.4 of the request appears likely to have captured a very large quantity of recorded information and it would likely have required considerable work to assemble that information ready to be disclosed.
19. On the basis of the representations from the Council and also, more importantly, on the scope and complexity suggested by the wording of the complainant's information request, the Commissioner accepts that

the Council estimated reasonably that compliance with request 2.4 would have taken more than 18 hours work.

20. The Commissioner's decision is that the Council is entitled to rely on section 12(1) of FOIA to refuse to provide information within the scope of part 2.4 of the request.

Section 16 – advice and assistance

21. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice¹ in providing advice and assistance, it will have complied with section 16(1).
22. In its submissions to the Commissioner, the Council stated that even if the complainant were to limit part 2.4 of the request to only information relating to infrastructure data or only information relating to vehicle, plant and intangible data, the cost of providing that information would still exceed the appropriate limit. Therefore, it considers that it is unable to provide the complainant with advice and assistance to help them reduce the scope of part 2.4 of the request so that it falls within the appropriate limit.
23. In this case, due to the complex and extremely detailed nature of the request the Commissioner has been unable to identify any advice and assistance which could have been provided by the Council that would have assisted the complainant in refining part 2.4 of the request so that it falls within the appropriate limit. Therefore, he considers that the Council met its obligations under section 16(1) of FOIA.

Section 1 – general right of access to information

24. Where a dispute arises over the extent of the recorded information held by a public authority at the time of a request, the task for the Commissioner is to determine whether on the balance of probabilities, the public authority holds any information relevant to the request which it has not already disclosed to the complainant.
25. In making this determination, the Commissioner will consider the complainant's evidence and argument and the actions taken by the

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

public authority to check whether the information is held and he will consider any other reasons offered by the public authority to explain why the information is not held. He will also consider any reason why it is inherently likely or unlikely that information is not held.

26. The Commissioner is not expected to prove categorically whether the information was held; he is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities. Applying the civil test of the balance of probabilities is in line with the approach taken by the Information Tribunal when it considered the issue of whether information was held.

The complainant's position

27. The complainant considers the Council to hold further information within the scope of their request. In particular, in their correspondence to the Commissioner the complainant stated that they consider the Council to hold further information relating to a "Place Mill asset" which falls within the scope of their request but has not been disclosed to them.

The Council's position

28. In its submissions to the Commissioner, the Council stated that when searching for information within the scope of the request, it consulted officers within its finance team. It also stated that information within the scope of the request would be held in its general ledger which contains information about income from the sale of assets.
29. The Council explained that it conducted searches of its general ledger and disclosed any information held in the ledger that falls within the scope of the request. Therefore, it considers with the exception of the information it has been withheld under section 12(1) of FOIA that falls within the scope of part 2.4 of the request, it has disclosed all the information it holds that falls within the scope of the request.

The Commissioner's position

30. The Commissioner acknowledges that the complainant considers the Council to hold further information within the scope of the request, particularly information relating to a "Place Mill asset". However, he considers that in this case, the Council has carried out reasonable searches for information within the scope of the request as the Council has consulted members of its finance team regarding the request and conducted searches of its general ledger for information within the scope of the request.
31. Furthermore, the Commissioner notes that the Council has already disclosed a considerable amount of information to the complainant in

response to the request. He also recognises that the Council has acknowledged that it holds further information within the scope of the request, that being the information withheld under section 12(1) of FOIA which falls within the scope of part 2.4 of the request.

32. Therefore, the Commissioner's decision is that on the balance of probabilities, the Council does not hold further information within the scope of the request which has not already been disclosed to the complainant or withheld under section 12(1) of FOIA.

Right of appeal

33. 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

34. 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.
35. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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