

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 24 September 2018

**Public Authority:** Boston Borough Council  
**Address:** Municipal Buildings  
West Street  
Boston  
Lincolnshire  
PE21 8QR

### **Decision (including any steps ordered)**

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1. The complainant has requested from Boston Borough Council (the Council) information in relation to Boston Town Area Committee (BTAC) budget. The Council responded to the complainant with the information that it considered to fall within the scope of the request. However, the complainant was not content with the amount of the information received.
2. The Commissioner's decision is that, on the balance of probabilities, the Council has provided the complainant with all of the information which it holds falling within the scope of the request.
3. The Commissioner does not require the Council to take any steps.

### **Request and response**

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4. On 29 December 2017, the complainant wrote to the Council and requested information in the following terms:

*"What was the BTAC budget for 2017?"*

*Can I have a breakdown of spending to date with beneficiaries listed please?"*

5. The Council responded on 4 January 2018, by providing the complainant with the information consisting of two links, which according to the Council contained the information sought. In addition the Council provided a brief explanation with figures about grant payments.
6. The complainant wrote back to the Council on 31 January 2018, claiming that the information related to breakdown of spending was incomplete.
7. On the same day, the Council responded, asserting that one of the links provided in the original response offers access to the information relating to the breakdown the complainant was requesting.
8. On 26 February 2018, the complainant formally requested from the Council to conduct an internal review of their handling of his information request.
9. In the process of conducting the internal review, the responsible person from the Council contacted the complainant to clarify the request, to which he responded that he is interested to know *"where the £260,000 entitled "Other Expenditure" is going"*.
10. On 18 April 2018, the Council responded by providing him with a list containing six categories of expenditure and it explained that the remainder will be held in reserves and subsequently allocated for the next financial year budget.
11. However, the complainant remains dissatisfied and believes that the Council holds more information compared to what was already provided. Therefore, he has asked the Commissioner to conduct an investigation into this matter.

### **Scope of the case**

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12. The complainant contacted the Commissioner on 12 March 2018 to complain about the way his request for information had been handled.
13. The Commissioner has considered whether the Council has identified and provided all of the requested information falling within the scope of the request, at the time when the request was submitted.

## Reasons for decision

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### Section 1(1) – General right of access

14. Section 1 of FOIA provides 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."*

15. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held.

16. For clarity, the Commissioner is not expected to prove categorically whether the information was held, she is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.

#### ***The complainant's position***

17. The complainant maintains that the provided information was not complete, lacking the detailed information regarding the beneficiaries of a category of spending enlisted in the budgets as "*Other expenditures*".

18. The complainant believes that the Council is in possession of this information and sees no reason why it is not disclosed.

#### ***The Council's position***

19. The Council maintains that it provided the complainant with all the relevant information falling within the scope of the information request of 29 December 2017, at the time when the request was submitted.

20. In response to the Commissioner's set of questions, the Council initially asserted that alleged missing information related to the beneficiaries of the allocated sum on "*Other expenditures*" was not held at the time of the request.

21. The Council explained that *"the budget as agreed included an initial sum that was to be allocated during the financial year, as members of BTAC (Boston Town Area Committee) wished to have available the ability to fund new initiatives during the year. The list that was subsequently supplied to the complainant shows what allocations were made during the year"*.
22. The Council also explained the provided table of the breakdown of *"Other expenditures"*. It explained that £ 10,000 were allocated for Christmas lights contribution; £25,000 for open spaces expenditure; £13,085 for Town Centre Operatives; £38,667 for events; £5,000 for illumination; while £100,196 were allocated for further works subsequently approved for open spaces expenditure. The remaining £70,362 will be held in reserves and allocated by BTAC during 2018/19.
23. In respect of the Commissioner's question whether the Council held information, at the time of the request, regarding the subjects/entities which were to be receiving or received the grants or payments as per the budget, the Council responded that it did not.
24. The Council explained that it conducted searches of its finance department records and agendas and minutes of BTAC. The Council asserted that it also consulted the Head of Financial Services and searched electronic records detailing budgets and records of meetings. However, none of these searches resulted with further information within the scope of the request.
25. The Council also confirmed that no information falling within the scope of request was deleted or destroyed. The records of this type, according to the Council's retention policy, are kept for six years plus the current year.

### ***The Commissioner's view***

26. The Commissioner has reviewed the copies of the requested document that the Council has provided to the complainant and the correspondence it had in the course of handling the complainant's requests.
27. In the circumstances of this case the Council has informed the Commissioner of the searches for relevant recorded information it has undertaken.
28. Whilst the Commissioner recognises that the complainant does not consider that the Council has fulfilled the requests, the Council has

provided a clear explanation of the searches that underlay its responses. No evidence is available to the Commissioner which would indicate that the Council's searches have been insufficient, or that recorded information is held falling within the scope of the request.

29. The Commissioner wishes to reiterate that the accuracy or completeness of information held by a public authority is not ordinarily a relevant factor when determining whether a request has been complied with – it is only necessary to establish whether recorded information held reflects what has been disclosed in response to a request.
30. In light of the above, the Commissioner is satisfied that the Council has complied with section 1(1) of the FOIA.

## Right of appeal

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31. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**