

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 December 2021

Public Authority: Deal Town Council
Address: High St
Deal
CT14 6TR

Decision (including any steps ordered)

1. The complainant requested information relating to Deal Town Council's (the "council") website design. The council disclosed some information and confirmed that other information was not held.
2. The Commissioner's decision is that the council has disclosed all the relevant information that it holds and complied with section 1(1) of the FOIA.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 26 November 2020, the complainant wrote to the council and requested information in the following terms:

"Please supply ALL documentation/information relevant to your impending website re-design including all minutes of meetings, costings, tendering invitation letters, tendering proposals and all replies from the companies contacted, all elements of your decision making process, the final decision as to award"
5. The council responded on 15 December 2020 and disclosed some information.
6. Following an internal review the council wrote to the complainant on 9 February 2021. It stated that it had disclosed all the relevant information that was held.

Scope of the case

7. On 18 February 2021 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
8. The Commissioner confirmed with the complainant that the investigation would consider whether the council had disclosed all the relevant held information.

Reasons for decision

Section 1(1) – duty to provide information held

9. Section 1(1) of the FOIA states:

"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. The council has stated that it has disclosed all the relevant information it holds that falls within the scope of the request.

11. The complainant considers that the council has failed to provide all the relevant information it holds that falls within the scope of the request. They have argued that the information disclosed does not provide any evidence of the decision making process, tendering, pricing and proposal details that would reasonably be expected for the commissioning of a website re-design.
12. 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 ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
13. To assist with this determination the Commissioner approached the council with a range of standard questions routinely asked in such scenarios. The questions (in bold) and a summary of the council's responses are reproduced below.
14. **What searches have been carried out to check no information was held within the scope of the request and why would these searches have been likely to retrieve any relevant information?**

The council explained that any electronic information relating to its website upgrade is held on the council's server (now migrated to Office 365). It confirmed that searches were carried out to ensure all the data held was made available. It explained that enquiries were also made within the staff to ascertain if any paper files existed.

15. **Please describe thoroughly any searches of relevant paper/electronic records and include details of any staff consultations.**

The council confirmed that searches were carried out by the Responsible Finance Officer of all the computer files held on the website upgrade and copies of all the data relating to council meetings where the subject was discussed in public meetings were retrieved and checked for relevant information. The council explained that this included the agenda, copies of any support documentation relating to the agenda item and copies of the approved minutes of any meetings. In addition, the council confirmed that the Responsible Finance Officer met with all the staff who had been involved in the upgrade to check that all the information had been gathered.

16. **If searches included electronic data, which search terms were used and please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.**

The council confirmed that all electronic data is held on council PC's or on 'Deal.gov.uk' Office 365 accounts. It explained that these files cover both emails and electronic filing and confirmed that no data is held, or permitted to be held, on personal computers or devices. The council clarified that these searches would have been carried out in the relevant system directories as well as more widespread searches on the words website, web site and web-site.

17. **Was any recorded information ever held relevant to the scope of the complainant's request but deleted/destroyed?**

The council explained that it is normal practice for notes of public meetings to be destroyed as soon as the minutes of the meeting have been agreed by council. It confirmed that no information was destroyed or deleted following the receipt of the request.

18. In addition to answering the questions above the council also confirmed that the "website re-design" referred to in the request was actually an upgrade to the existing web-site, with the existing web-site provider moving the council's web-site to their latest platform. It confirmed that, under the terms of the council's Financial Regulations, this was not required to go out to tender and the decision to go ahead was made by the council in a public meeting.
19. Having considered the available evidence the Commissioner is satisfied that, on the balance of probabilities and based on the searches carried out and the nature of the "re-design", the council has disclosed all the relevant information that it holds.
20. In view of the above, the Commissioner has concluded that the council has complied with section 1(1) of the FOIA.

Right of appeal

21. 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

22. 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.
23. 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

Ben Tomes
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