

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 April 2025

Public Authority: Somerset Council
Address: County Hall
Taunton
Somerset
TA1 4DY

Decision (including any steps ordered)

1. The complainant has requested information about care agreements. The above public authority ("the public authority") stated that it did not hold some of the requested information.
2. The Commissioner's decision is that the public authority failed to comply with its section 16 duty to provide advice and assistances, because it did not obtain the correct objective reading of the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Contact the complainant to help him clarify part 1 of his request such that it is both clear and valid for the purposes of section 8 of FOIA.
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 26 September 2024 the complainant requested information of the following description:
 - "[1] How many financial agreements have been sent out by the council in the past year without fully detailing the legal rights of the recipients?
 - [2] What measures does the council take to ensure that all financial agreements comply with legal requirements and provide full transparency to the recipients?
 - [3] How many recipients were given adequate time to seek legal advice for example, how many were made aware of their right to cancel?
 - [4] How much money has the Council procured from families supporting vulnerable adults and vulnerable adults themselves, using these forms in the last 12 months and do they feel it morally acceptable?"
6. On 17 October 2024, the public authority responded. It provided some information within the scope of parts 2 and 4 of the request, but denied holding information within the scope of parts 1 and 3.
7. The complainant requested an internal review on 22 October 2024, asking for an aggregated summary for parts 1 and 4 and clarifying what they were seeking in respect of part 3.
8. The public authority sent the outcome of its internal review on 4 November 2024. It revised your position. It still claimed that it held no information within the scope of part 1 of the request. In respect of parts 3 and 4, it provided some information.

Scope of the case

9. The complainant contacted the Commissioner on 27 November 2024 to complain about the way his request for information had been handled.
10. The Commissioner recognises that the complainant has concerns with the way the Council has responded to parts 2, 3 and 4 of the complaint, but is content not to pursue them as part of this complaint. The remaining issue is whether information is held in respect of part 1.

11. The Commissioner wrote to the public authority on 31 March 2025 to set out the scope of his investigation. He noted that, based on the public authority's responses, it seemed highly likely that it would hold some information within the scope of part 1 – albeit that that information might not be easy to compile from the records that are held.
12. In the interests of efficiency, the Commissioner set out his standard section 12 questions to the public authority so that, in the event that it decided that the cost of complying with the request would exceed the appropriate limit, he could proceed to consider that immediately.
13. At the date of this notice, the public authority has failed to respond to the Commissioner's letter.
14. Having reconsidered the exact wording of the request, the Commissioner is now of the view that it may not be one that is valid or that, if it is, it may be capable of more than one objective reading. Whilst the public authority's lack of engagement has prevented the Commissioner from resolving this issue informally, he recognises that he cannot compel the public authority to comply with a request it doesn't understand.
15. Given the lack of engagement, whilst he cannot compel the public authority to comply with an unclear or invalid request, the Commissioner has decided instead to consider the public authority's compliance with section 16 of FOIA.

Reasons for decision

16. Section 16 of FOIA requires a public authority to provide reasonable advice and assistance to those making, or wishing to make, requests for information.
17. What is "reasonable" will depend on the circumstances, but it will usually include advising a would-be requester that their request is unclear or invalid and assisting them to make a clear, valid request.
18. In this request, the complainant asked for the number of letters sent out "without **fully** detailing the legal rights of recipients." [emphasis added]
19. In order to be valid, a request must describe the recorded information that the requester wishes to receive. In the Commissioner's view, a request will only "describe" the information if it allows the public authority to distinguish, objectively, between the information it is being asked to provide and any other information it may hold.

20. In the Commissioner's view, by asking for letters that did not "fully detail" the legal rights of recipients, the request included a degree of subjectivity.
21. The complainant may well have a clear idea of what he considers a letter "fully detailing" a recipient's legal rights should contain. However, the request does not set that out and it is possible that a different person may take a different, but still reasonable, view of what such a letter should contain. To take just one example, it is possible that reasonable people could disagree about whether a letter, containing a weblink to where legal information could be found (as opposed to having that information printed within the body of the letter itself), was one that "fully detailed" the recipient's legal rights.
22. Having received such a request, the public authority should have been alert to the fact that, if the request were valid, more than one objective reading of it was possible.
23. In the Commissioner's view, the public authority was under an obligation to attempt to understand exactly what it was that the complainant was seeking. It should have attempted to find a form of words that was acceptable to the complainant and that allowed it to distinguish the information he wanted from any other information it held.
24. As the public authority failed to do so, it breached section 16 of FOIA. It must now comply with its obligations.
25. The Commissioner would reiterate that this matter could have been resolved quickly and easily had the public authority been willing to engage with him.

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: 0203 936 8963

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

Roger Cawthorne
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