

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 May 2015

Public Authority: City of York Council
Address: West Offices
Station Rise
York
YO1 6GA

Decision (including any steps ordered)

1. In a ten part request, the complainant has requested information from City of York Council ('the Council') about its management of requests for information under the Freedom of Information Act. The Council refused to comply with the request as to do so would exceed the cost limit provided under section 12 of the FOIA. It said that if the complainant was to clarify one part and refine another part, it would be able to respond to the request in its entirety within the cost and time limit. The complainant subsequently clarified these two parts; effectively submitting a new, refined request. The Council has not responded to this revised request.
2. With regard to the refined request, the Commissioner's decision is that City of York Council has breached 10 of the FOIA (time for compliance) and he requires it to take the following step to ensure compliance with the legislation:
 - Comply with the refined request made on 30 October 2014 or issue a valid refusal notice as set out in section 17 of the FOIA.
3. The public authority must take these steps within 35 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

4. On 10 September 2014, the complainant wrote to City of York Council and requested information in the following terms:

"Please provide the following information on your FoI request performance for each year from 2009 to date:

- 1 How many FoI requests have been received?*
- 2 How many were satisfactorily answered within the 20 working day period?*
- 3 How many internal reviews were requested?*
- 4 How many internal reviews were refused?*
- 5 How many requests were judged as vexatious?*
- 6 How many complaints were made to the Information Commissioner?*
- 7 How many of these complaints were upheld by the ICO?*
- 8 Where is the foregoing information recorded and reported to members?*
- 9 How many staff are involved in dealing with FoI requests?*
- 10 What is the cost of administering FoI requests?"*

5. The Council responded on 19 September. It refused to comply with the request under section 12 of the FOIA as it said to do so would exceed the appropriate limit.
6. Meeting its obligation under section 16 of the FOIA to provide advice and assistance, the Council said that it could possibly provide a response to the whole request if, first, the complainant was to clarify part 2 of the request. It offered two possible interpretations of this part.
7. The Council also said that between September 2012 and March 2014, it did not hold information relating to part 5 in a format that would enable the Council to report on it. Regarding part 5, the Council told the complainant that if he also revised this part of the request, perhaps altering the 'from' date from 2009 to August 2012, it could, again, provide a response to the whole request.
8. Following an internal review the Council wrote to the complainant on 14 October. It said that the complainant had not clarified part 2 or part 5 of the request and so the Council was not obliged to comply with the original request in its entirety. The Council confirmed that in order for it to respond to his entire request within the 18 hours provided under section 12 of the FOIA, the complainant should clarify part 2 and redefine the scope of part 5.
9. On 30 October, the complainant confirmed which of the Council's interpretations of part 2 of the request was correct and, in relation to

part 5, confirmed that he was content with the timescale the Council had suggested.

10. In the Commissioner's view, at this point the complainant had submitted a revised request and he now considers that the Council should have responded to it in its entirety within 20 working days.
11. The Commissioner wrote to the Council on 7 April 2015 and mistakenly asked it to provide the complainant with a response to only part 2 and part 5 of the request within 10 working days. In the course of drafting this decision notice, the Commissioner has noted that the Council should, in fact, be providing a response to all ten parts of the request.
12. On 23 April the complainant confirmed to the Commissioner that he had not received any response from the Council.

Scope of the case

13. The complainant contacted the Commissioner on 26 January 2015 to complain that the Council had not responded to his revised request.
14. The Commissioner is satisfied with the Council's treatment of the original request submitted on 10 September 2014. He therefore focussed his investigation on the Council's obligations under section 10 of the FOIA with regard to the revised request submitted on 30 October.

Reasons for decision

15. **Section 1(1)** of the FOIA says that an individual who asks for information is entitled to be informed whether the information is held and, if it is, to have that information communicated to them.
16. **Section 10** of the FOIA says that a public authority must respond to a request for information no later than the twentieth working day following the date of receipt.
17. The complainant submitted their revised request on 30 October 2014 and, more than six months later, has yet to receive a response to any aspect of it. This is a clear breach of section 10.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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.

Signed

Pamela Clements
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