

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date: 1 September 2011

Public Authority: Cornwall Council
Address: County Hall
Treyew Road
Truro
TR1 3AY

Summary

The complainant requested information about the cost to the public authority of using independent consultants. The public authority failed to provide this information within 20 working days in contravention of section 10(1) of the Act. No steps are required.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 28 January 2011, the complainant submitted a request to the public authority for information of the following description:

"Please could you supply costs of independent consultants and or facilitators/advisor to Cornwall Council.2008 2009 2010-11 I would like the company details and commencement date of contracts and end of contract dates, costs. I would also request which departments in the council have requested and are getting help from outside sources.

An example ,Peter Fletcher Associates Ltd.How much money has been paid to this company? and why? please provide breakdown

Organi Associates Independent Facilitator Heather Eardley independent consultants. Please supply payments made to Ms Eardley or her company by the council and from which fund monies were taken from to pay salaries and any tasks/projects associated with Ms Ardley ie CPB development, personalisation development. Resource allocation, Health. Are payments made per project?"

3. The complainant made this request via the WhatDoTheyKnow ("WDTK") website.
4. The public authority acknowledged receipt of the request in an email of 3 February 2011 (also via WDTK) and gave a target date for response of 25 February 2011, that is, within 20 working days of the date of receipt of that request.
5. There followed an exchange of correspondence between the complainant and the public authority from 26 February 2011 on the following dates; 17 March 2011, 31 March 2011 and 1 April 2011. In this correspondence, the complainant chased a response to her initial request and the public authority, with a series of apologies, undertook to provide her with a full response but failed to do so.
6. On 5 April 2011, the complainant requested an internal review of the public authority's failure to respond in a timely manner.
7. On 12 April 2011, the public authority provided the complainant with a copy of the information she had requested. Unfortunately, it was not in a readable format. Following a further message from the complainant, the public authority sent her a copy of the withheld information in a readable format on 13 April 2011.
8. Further comment regarding the complainant's request for internal review is set out in the Other Matters section of this Notice.

The Investigation

Scope of the case

9. On 15 April 2011, the complainant contacted the Commissioner to complain about the way her request for information had been handled by the public authority. She asked the Commissioner to consider the timeliness of the public authority's response.
10. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act. These

relate to requests made under the Act to the public authority by persons other than herself and on whose behalf she is not authorised to act.

Chronology

11. The Commissioner wrote to the complainant on 20 May 2011 to acknowledge receipt of the complaint.
12. He also wrote to the public authority on 20 May 2011 to advise receipt of the complaint.
13. On 23 May 2011, the public authority wrote to the Commissioner to explain that it had now disclosed information to the complainant within the scope of her request.
14. The Commissioner next wrote to the complainant on 1 August 2011 setting out the scope of the case and providing commentary regarding the complainant's concerns about the timeliness of the public authority's internal review. More information about this is set out in Other Matters.
15. The Commissioner noted that the complainant had now received the information she had requested and, on this basis, invited her to withdraw her complaint. He drew her attention to the fact that the public authority was one of the bodies he had been monitoring with regard to the timeliness of its responses in the period 1 April 2011 – 30 June 2011¹ and that the events of this case would be logged as part of that monitoring exercise.
16. The complainant responded by return to advise that she was not prepared to withdraw her complaint. She said that:

"If Cornwall council are allowed to break the law without consequence they will continue to do so".

Analysis

Procedural Requirements

17. The complainant objected that the public authority had failed to issue its original refusal notice within the statutory timescale of twenty working days. She also claimed that the public authority had delayed severely in providing its internal review decision, but since there is no statutory

¹ http://www.ico.gov.uk/what_we_cover/promoting_openness/monitoring_compliance.aspx

timescale laid down for completing internal reviews this issue is addressed in the section 'Other matters' below.

18. Section 10(1) of the Act provides that:

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.'

19. The Commissioner has provided guidance on this issue in his 'Good Practice Guidance No 4'². A response may take the form of the supply of the requested information, confirmation that the information is not held, a formal refusal or an indication that additional time is required to consider the public interest in relation to specific exemptions.

20. Section 1(1) 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.'*

21. In this case, the complainant made her request on 28 January 2011, but the public authority did not provide her with a readable version of the requested information until 13 April 2011, nor did it confirm that it actually held the requested information until the day before that. It therefore took 51 working days to respond to the information request.

22. Accordingly, the Commissioner finds that, in failing to provide the requested information within 20 working days, the public authority breached the requirements of section 10(1) of the Act.

The Decision

23. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Act.

2

http://www.ico.gov.uk/~/_media/documents/library/Freedom_of_Information/Detailed_specialist_guides/FOI_GOOD_PRACTICE_GUIDANCE_4.ashx

- In failing to respond to the complainant's request within 20 working days, the public authority contravened the requirements of section 10(1) of the Act.

Steps Required

24. The Commissioner requires no steps to be taken because the public authority has now provided a response to the complainant's request.

Other matters

25. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern.
26. As noted above, the public authority's overall compliance with section 10 of the Act has been monitored during the period 1 April 2011 to 30 June 2011, in accordance with the Commissioner's regulatory action policy³.
27. The complainant raised concerns about what she considered to be the public authority's delayed handling of her request for an internal review of its initial failure to respond in a timely manner. However, the Commissioner is satisfied that, in this case, the public authority did conduct its internal review in a timely manner and in accordance with the Commissioner's recommended timescale of 20 working days⁴.

3

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/freedom_of_information_regulatory_action_policy.pdf

4

http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/time_limits_internal_reviews.pdf

Right of Appeal

28. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

29. 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.
30. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 1st day of September 2011

Signed

**Alexander Ganotis
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**