

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 30 April 2012

**Public Authority:** Ballymoney Borough Council  
**Address:** Riada House  
14 Charles Street  
Ballymoney  
County Antrim  
BT53 6DZ

#### Decision (including any steps ordered)

---

The complainant submitted a request to Ballymoney Borough Council ("the Council") under the Freedom of Information Act 2000 ("FOIA") for information about the Council's expenditure on legal fees for employment matters. The Commissioner has investigated the complaint and finds that the Council failed to provide the complainant with the information she requested or to issue a valid refusal notice within the statutory timeframe of 20 working days as set out in section 10(1) of FOIA. The Council was in breach of its procedural obligations under FOIA. However, since the requested information has now been provided to the complainant, the Commissioner requires no steps to be taken.

#### Request and response

1. On 15 January 2011, the complainant wrote to the Council and requested information in the following terms:

"I would like to know how much the Council has spent outsourcing to either Barristers Chambers or Solicitors at Employment Tribunals for all Council Staff (including Teaching Staff). Any combination of those below, between 1st August 2000 and the 31 October 2010:

- 1) For constructive dismissal
- 2) Unfair dismissal
- 3) One (or more) of the various discrimination claims and/or under the Protection from Harassment Act
- 4) Public Interest Disclosure Act 1998
- 5) Any other Employment issues, I may have omitted.

Please name the Solicitors/Barristers that the Council have outsourced to: For example, 2010 Number Name.

I would request that you include VAT in the figures Please provide the figures in the following format e.g. 2006 – NUMBER HERE; 2007 – NUMBER HERE; 2008 – NUMBER HERE; 2010 – NUMBER HERE; etc, thus making it easier for one to read and to ensure there is no misunderstandings.

Please also send this information as "calendar years".  
Please note that I do not seek or require any personal information such as names and addresses – only the total figures."

2. The complainant again wrote to the Council on 21 March 2011 as it had not responded to her request for information. The Council responded on 22 March 2011 stating that it had not received the complainant's request and asking for details of when it was sent. The complainant responded, directing the Council to the website [www.whatdotheyknow.com](http://www.whatdotheyknow.com) where all the details of the request could be found.
3. The Council wrote to the complainant on 23 March 2011 stating that it could still find no record of the complainant's request and asking her to re-submit the request. The complainant again directed the Council to the above website and chased up her request on 2 further occasions, the most recent being on 21 January 2012. On 25 January 2012 the Council wrote to her stating that it had closed her request as it had no record of it and again asked her to re-submit the request. The complainant then complained to the Commissioner.
4. Following the Commissioner's intervention, the Council provided the complainant on 12 March 2012 with the information she had requested.

### **Scope of the case**

---

5. The complainant contacted the Commissioner to complain about the way her request for information had been handled.
6. The Commissioner has considered the Council's handling of the complainant's request.

## Reasons for decision

---

### Section 10(1): Time for compliance

7. Section 1(1)(a) of FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
8. Section 10(1) requires that the public authority comply with section 1 promptly and in any event no later than 20 working days after the date of receipt of the request.
9. The Commissioner notes that the complainant's request for information was made on 15 January 2011, however she did not receive the information, or a valid refusal notice, until 12 March 2012. From the information provided to the Commissioner in this case it is evident that the Council did not respond to the complainant under FOIA within the statutory time frame and therefore it breached section 10(1) of FOIA.

## Right of appeal

---

10. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

11. 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.
12. 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** .....

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