

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 17 January 2013

**Public Authority:** Hertfordshire County Council  
**Address:** County Hall  
Pegs Lane  
Hertford  
SG13 8DQ

#### **Decision (including any steps ordered)**

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1. The complainant submitted a request for information relating to the cost/time spent by Hertfordshire County Council ("the council") preparing for various court hearings. The council advised the complainant, both in its initial response to the request and its internal review, that it did not hold the information requested for two of the court hearings specified in the request. However, following the Commissioner's intervention, the council has now confirmed that it does hold the information requested in respect of these two hearings. The Commissioner's decision is that the council has failed to comply with section 10(1) of the Act.
2. The Commissioner requires the public authority to take the following step to ensure compliance with the legislation:
  - Disclose the information specified in the request in respect of cases 3319014/2006 and 3302145/2007.
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

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4. On 28 September 2011, the complainant wrote to the council and made a request for various pieces of information, including the following:

*"5. 0. How much did it take HCC's in house solicitors in hours or man hours – an estimation of the hours should be sufficient – to prepare the following cases for court hearing: case 3319014/2006, case 3302145/2007, case 3302043/2010, case UKEAT/0243/09/JOJ, case 8ED06242, and case HQ 10X03993".*
5. The council responded on 26 October 2011, providing information in respect of the final four cases identified in the request. However, in respect of cases 3319014/2006 and 3302145/2007, the council stated that it *"[did] not hold a figure for [the] time spent as this predates [its] recording system which was introduced in March 2008"*.
6. Following an internal review, the council wrote to the complainant on 28 November 2011. It maintained its position that it did not hold the information requested in respect of these two cases.

## Scope of the case

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7. The complainant contacted the Commissioner on 3 August 2012 to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider whether the council held the information requested in respect of cases *"3319014/2006 [and] 3302145/2007"*, identified in the request above. Accordingly, this was the focus of the Commissioner's investigation.

## Reasons for decision

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8. The Commissioner wrote to the council asking it to explain the scope, quality and thoroughness of the searches it had conducted for the information. In addition, the Commissioner also put to the council various reasons which the complainant had presented to him as to why he felt the council held all of the information requested. This included evidence from an investigation by the Bar Standards Board, into a related matter, which suggested that the council had prepared cost estimates in respect of the two cases forming the subject of his complaint to the Commissioner. This therefore raised the possibility that the council did, at least at some point in time, hold the information requested in respect of cases *"3319014/2006"* and *"3302145/2007"*.

9. In response to the Commissioner, the council confirmed that it did in fact hold the information sought in respect of these two cases. It explained that it had "*incorrectly interpreted the request [and] should have provided the information*". The council explained that the officer who responded to the request had been searching for the time records which would support the two schedules containing the information sought. It is these records which are no longer held, though the schedules for the relevant two cases are still in the council's possession.
10. The council did not raise any suggestion that the information might be caught by any of the Act's exemptions, and indicated that it was willing to disclose the information to the complainant.
11. Section 1(1)(a) states that any person making a request for information to a public authority is entitled to be informed in writing by that public authority whether it holds any information of the description specified in the request. Section 1(1)(b) states that if that is the case the person making the request has the right to have that information communicated to them.
12. Section 10(1) requires a public authority to respond to a request promptly and in any event no later than 20 working days after the date of receipt.
13. In failing to comply with section 1(1) within 20 working days, the council has breached section 10(1) of the Act.

## Right of appeal

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14. 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)

15. 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.
16. 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 .....**

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