

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

### **Decision notice**

**Date:** 27 June 2013

**Public Authority:** Braintree District Council  
**Address:** Causeway House  
Bocking End  
Braintree  
Essex  
CM7 9HB

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

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1. The complainant has requested information relating to a claim made against Braintree District Council by a specific individual. The Commissioner's decision is that Braintree District Council has dealt with the request in accordance with section 1 of the FOIA. He does not require any steps to be taken.

#### **Request and response**

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2. On 22 October 2012, the complainant wrote to Braintree District Council ('the council') and requested information in the following terms:  
  
"1. I believe that there was a Claim made by [specific individual] against Braintree District Council in the Queens Bench Division.  
  
I don't know the name and address of the Queens Bench Division where the Claim form had been issued, since the Queens Bench Division Court is in London and Outside London.  
  
2. I believe that Braintree District Council had defended the Claim, whether the Council had instructed the Insurance Company to defend the Claim, then you should provide me with the name and address of the Insurance Company with the Claim Reference Number for the Insurance Company.  
  
3. I believe that the Solicitors who were acting on behalf of the Braintree District Council- They did apply for a Civil Restraint Order

I request that I should be given a copy of the Civil Restraint Order as on the Civil Restraint Order there is a Name of the Judge who has been assigned to hear any applications to have the Order amended/varied or discharged.

4. I had appeared before the High Court Judge Mr Justice Park on the 22<sup>nd</sup> July 2005, where it was ordered that:-

“Except the Court of Appeal and the House of Lords”

This Judgement has not been published on the Public Domain Document which does cause injustice to many other Citizens in the United Kingdom.

5. I request that you should confirm by Letter or Email that:-

You do have copies of the Family Law Act 1986 Part 3 Section 55 (1) (d), 58 (1) (2) (3), 59 (1) (2).”

3. The council responded on 7 November 2012 as follows:

1. It confirmed that it held the requested information but stated that it considered it was exempt from disclosure under sections 21 and 32 of the FOIA. However, it also stated that it has a duty of assistance under section 16 of the FOIA and provided the address for the High Court of Justice, Queens Bench Division and the case number.
2. It considered it the information was exempt from disclosure under section 32 of the FOIA but also advised that it did not instruct an insurance company to defend the claim.
3. It confirmed that it held the requested information but considered it the information was exempt from disclosure under section 32 of the FOIA. However, it also stated that it has a duty of assistance under section 16 of the FOIA and stated that the information is available from the Court Office of the High Court of Justice, Queens Bench Division and provided an address and case number.
4. It stated that in responding to requests, the council is not required to create information nor provide comments in response to questions and asked the complainant to clarify his request.
5. It stated that in responding to requests, the council is not required to create information nor provide comments in response to questions and asked the complainant to clarify his request. It also informed the complainant that it has access to the Family Law Act 1986 and provided a link to where legislation is publically available on the internet.

4. The complainant requested an internal review on 7 November 2012.
5. The council provided an internal review response on 22 November 2012 in which it maintained its application of sections 21 and 32 of the FOIA. It also stated that, in dealing with the request, it had attempted to assist by directing the complainant to sources of information and had sought clarification where it was not clear what information was being sought, and consequently, it had discharged its duty of assistance under section 16 of the FOIA.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 22 November 2012 and 3 December 2012 to complain about the way his request for information had been handled. He alleged that there is an offence under section 77 of the FOIA for not providing a copy of the Civil Restraint Order requested at point 3.
7. During the Commissioner's investigation, the council confirmed the following:
  - As it had provided the information requested at point 1 in its initial response, it that it no longer wishes to maintain the application of section 21 or 32 of the FOIA to this part of the request.
  - As it did not instruct an insurance company, it does not hold the requested information and therefore is not applying the exemption at section 32 of the FOIA to point 2 of the request.
  - In relation to part 3 of the request, the council provided a copy of the requested information, namely the Civil Restraint Order (with the subject's address redacted).

Therefore, the Commissioner has not considered these parts of the request.

8. Although the council requested clarification of point 5 of the request, it did answer the specific question and provided a web link to where the complainant could access the specific legislation. Therefore the Commissioner has not deemed it necessary to make a decision in relation to this part of the request.
9. The Commissioner has therefore only considered whether the council responded to point 4 of the request in accordance with section 1 of the FOIA.

10. For clarity, the Commissioner has not considered the section 77 allegation as the council provided the requested information during the investigation.

### **Reasons for decision**

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11. Section 1(3) provides that:

“Where a public authority –

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.”

12. The council stated that it is unclear what information is being requested and asked the complainant to clarify the request.
13. The council explained to the Commissioner that it received three emails from the complainant subsequent to its request for clarification but none of the emails provided clarification, rather they set out a number of questions/statements/facts to the council.
14. The Commissioner has viewed the three emails from the complainant and notes that they do not contain clarification of the request. He also notes that the emails contained fresh requests for information which the council has confirmed it has treated as such.
15. Taking into consideration the wording of point 4 of the request, the Commissioner considers that it is unclear what information the complainant sought and therefore believes that it was reasonable for the council to seek clarification from the complainant to be able to identify and retrieve information that may be held.
16. In the absence of further clarification from the complainant, the Commissioner has determined that the council was not obliged to respond to the request and concludes that it has complied with section 1(3) in relation to this request.

## Right of appeal

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17. 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)

18. 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.
19. 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 – Complaints Resolution**  
**Information Commissioner’s Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**