

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 August 2013

Public Authority: Isle of Wight Council
Address: County Hall
Newport
Isle of Wight
PO33 1UD

Decision (including any steps ordered)

1. The complainant made a multipart request to Isle of Wight Council (the council) broadly regarding the school reorganisation project. Some of the requested information was his personal data and was therefore considered under the Data Protection Act 1998 (the DPA). The remainder was considered by the council under the FOIA.
2. The council responded to those requests however in responding outside 20 working days the Commissioner's decision is that the council failed to comply with section 10 of the FOIA.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 26 November 2012 the complainant requested information of the following description:

"I have requested such information as my personnel file and I am seeking this information as part of this request.

1. *Please send me copies of all my emails that have been sent, received, copied into (CC and BCC) for the initial period above;*
2. *Please send me emails (sent and received) from non- schools and learning directorate members of staff in the council regarding Cowes HS OSP/Cowes Enterprise College in the subject*

matter that include '[complainant]' as the focus and relating to my duties.

- 3. Please send me the minutes of The School Reorganisation Project Board dealing with the new school building projects including the Cowes High School OSP project and any reports, papers or internal correspondence dealing with these building projects;*
 - 4. Please send me the minutes of all Planning & SILs meetings and any reports, papers or internal correspondence dealing with these building projects;*
 - 5. Please send me the minutes of all Site Progress (and Project) meeting minutes for the Cowes HS OSP project and any reports, papers or internal correspondence dealing with these building projects;*
 - 6. Please send me the Procurement Board papers for all contract lettings for the Cowes OSP project and any reports, papers or internal correspondence dealing with these building projects;*
 - 7. Please could you tell me what categories of records you hold and your structured data and relevant filing systems relating to the School Reorganisation Programme and the subsequent building works from January 2010 to 22 November 2012 in order that I can be a little more specific than above, although It is my understanding that the requestor does not have to specify the documents themselves by name/title/date/etc. if the details are set out in clear and specific manner."*
5. The Commissioner considers that only the third, fourth, fifth and sixth parts of this request are covered by the FOIA, the remainder relate to the complainant's own personal data. The Commissioner has conducted an assessment under section 42 of the DPA in relation to these requests and has written to both the council and the complainant to inform them of the outcome.
 6. On 30 November 2012 the council provided the complainant with access to the council offices to view project information and emails.
 7. The complainant considered that he had not been provided with all the information he requested and therefore contacted the council about this on 3 December 2012. On 10 December 2012 three USB memory sticks containing information from the complainant's 'I drive' were provided to the complainant by the council.

8. On 8 January 2013 the complainant again contacted the council to chase a full response to his requests as he maintained that he had not been provided with all the information he had asked for.
9. The council's Chief Executive wrote to the complainant on 11 January 2013 mainly in relation to personal employment matters. The letter also stated that with regard to his FOI/SAR request, it was understood that the remaining information had been located and that an invitation to view the files had been extended to him. It appears that the complainant had not been provided with the access referred to and therefore wrote to the council again on 14 January 2013 chasing a response to his freedom of information requests.
10. On 14 January 2013 the council responded in relation to the request for procurement board papers and school reorganisation programme information. It stated that it understood that further records relating to these matters were being made available for the complainant to inspect. As such access had not yet been provided, the complainant contacted the council again about this on 17 January 2013.
11. The council states that a further USB memory stick was then provided on 22 January 2013.
12. The council wrote to the complainant on 28 January 2013 advising that it considered that the information he had requested was held on his I drive and that he had therefore already accessed it. It therefore asked for further information about where he anticipated that additional information would be held.
13. On 29 January 2013 the complainant gave the names of individuals who he thought would be likely to know where the requested information was held and requested that appropriate searches be conducted. The council responded on 5 February 2013 to provide locations of some of the information held on the I drive which the complainant had copies of, and also stated that a further search would be conducted regarding procurement board papers.
14. Further information was then provided to the complainant on 11 and 18 February 2013 in the form of CDs containing information on the school reorganisation project. The council also wrote to the complainant on 14 February 2013 and provided him with copies of the procurement board meeting minutes it considered relevant to his request.
15. The complainant asked for an internal review on 19 February 2013, specifically in relation to the way the council had dealt with the request and the adequacy of the searches for information requested. On 18 March 2013 the council provided the outcome of its internal review. It

maintained that the request had not been made until 17 January 2013, but that it was paused until the complainant provided more information on 29 January 2013 about where the requested information may be held. The council also stated that it considered that its response of 14 February 2013 concluded the FOI request and therefore it maintained its position that it had responded within the prescribed timeframe for compliance.

Scope of the case

16. The complainant initially contacted the Commissioner on 19 February 2013 to complain about the way his request for information had been handled. The complaint was not ready for consideration at this point as the council had not completed its internal review. Once the internal review response had been communicated to the complainant, he contacted the Commissioner again on 26 March 2013 to complain about the way his request had been handled.
17. The complainant explained that whilst he considers that the searches carried out by the council have been inadequate, he no longer requires the information and therefore does not wish to pursue this matter. However, he has asked the Commissioner to investigate the way in which the council has handled the request which he considers has resulted in the information requested being provided outside the time frame for compliance.
18. The Commissioner considers the scope of this investigation to be to consider and record any procedural breaches in the way in which the council has handled the request.

Reasons for decision

19. Section 1 of FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and, if so, to have that information communicated to him. Section 10(1) of FOIA provides that this must be done within 20 working days of receiving a request.
20. The council has explained that as the complainant was an employee, it felt it was able to provide with more information than it would be able to provide him in response to a freedom of information request which would have required a consideration of what information could be disclosed to the public. It has also stated that it felt it was an inappropriate use of its resources to task officers with searching through

records to which the complainant had been provided through informal means. It has suggested that if it were to have done so, it would have taken in excess of 18 hours and the council would therefore have been likely to refuse the request under the provisions of section 12 of the FOIA. However, whilst the council proceeded to provide the information to the complainant by what it considers to be more informal means, it has not at any point issued a refusal notice to inform the complainant that it considered any information to be exempt from disclosure under the FOIA. This resulted in multiple letters and emails between the parties and in the information the complainant requested being provided to him over a number of months following the request.

21. As the council has not issued a refusal notice to the complainant at any point, the Commissioner considers that it remained under an obligation to respond to the request of 26 November 2012 within 20 working days. The Commissioner notes that the council did ask the complainant to clarify the scope of his request on 14 January 2013 in respect of emails he had requested. However, this clarification was not requested within 20 working days. Further to this the final batch of information in respect of the parts of the request that were being considered under the FOIA was not provided until 18 February 2013.
22. The Commissioner has therefore concluded that the council failed to comply with section 10(1) of the FOIA as it failed to either issue a valid refusal notice or supply the requested information within 20 working days.
23. As the complainant has stated that he does not wish to pursue the provision of any further information, the Commissioner does not require the council to take any steps.

Right of appeal

24. 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

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

25. 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.
26. 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