

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 April 2014

Public Authority: Buckinghamshire County Council
Address: County Hall,
Walton Street
Aylesbury,
Buckinghamshire HP20 1UA

Decision (including any steps ordered)

1. The complainant has requested information relating to a complaint he made to Buckinghamshire County Council (BCC).
2. The Commissioner's decision is that BCC has provided all the information it holds within the scope of the request. It has therefore complied with its duties under section 1 of the FOIA.
3. The Commissioner does not require the public authority to take any steps as a result of this decision notice.

Request and response

4. On 19 September 2013, the complainant wrote to BCC and requested information in the following terms:

"On 18 October 2012 at 16.13 [redacted] advised me that the complaint had been passed to [redacted]. May I please see copies of all internal e mails and memos following the sending of that complaint showing what progress was made in considering the complaint. Where there are gaps in the memos or e mails can a summary be provided of the actual progress made. Can this include the dates on which the legal advice was sought and received as described by [redacted] in subsequent emails and also any memos or minutes, which lead to the conclusions that this advice was needed or how the advice received was to be acted upon or which give advice on the reasons for the delay.

Any material showing advice that [redacted] or [redacted] took from colleagues on the progress of the complaint to be included please. Can there also be a statement showing what action [redacted] or [redacted] took at any stage to accelerate the process when it became evident that the 28 day time scale was unlikely to be met.

On 16 March 2012 [redacted] accepted my complaint. Please provide copies of all e mails memos and notes of meetings or other communications which took place between then and the first action of [redacted] on 1st May. Please fill any gaps with summaries of known actions or reasons which led to action being commenced on 1st May. Please include any evidence which suggests or gives reasons why no action was taken in this period."

5. BCC responded on 18 October 2013 and provided some information within the scope of the request. It stated that it did not hold the remainder.
6. Following a further letter from the complainant, BCC responded asking for clarification on what further information was required. BCC also stated that any further requests would be considered in light of section 14(1) of the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 26 November 2013 to complain about the way his request for information had been handled. The complainant considered that he had made a request for an internal review, and had not received a response.
8. Following intervention by the Commissioner, BCC provided an internal review on 21 January 2014.
9. The Commissioner considers the scope of this case to be to determine if BCC has complied with its duties under section 1 of the FOIA.

Reasons for decision

10. Section 1 of FOIA provides two distinct but related rights of access to information that impose corresponding duties on public authorities.

These are:

- the duty to inform the applicant whether or not requested information is held and, if so,
- the duty to communicate that information to the applicant.

11. When a complainant complains that a public authority has not accounted for all the requested information it holds, the Commissioner will decide whether this is the case on the balance of probabilities. He will reach the decision based on the adequacy of the public authority's search for the information and any other reasons explaining why the information is not held, such as there being no business need to record it. In order to assist in this determination the Commissioner put a number of questions to BCC.

12. BCC explained that the complainant had contacted them in four overlapping ways in the time period in question. It went on to explain that oral and written communication had been had with several officers to establish what information was held.

13. Having collated the material located after all reasonable searches, a further check was made with two officers and no additional information was found.

14. BCC has also explained the reasons why it considers there is little information held. This has been provided only for the benefit of the Commissioner's investigation. In addition BCC considers that if the complainant reviewed the information already supplied, the request may well be satisfied.

15. BCC confirmed the searches it has carried out:

- Paper records, electronic records (including searches by relevant officers) and a database search
- A computerised check of its current and archived data through its IT section

16. It also confirmed that BCC has a very detailed retention schedule that would cover complaints records, but any information that was destroyed would not have been considered a 'declared' record, rather, it would

have been a Standard Operating Procedure record not intended for retention. BCC also provided an extract from its Records Management Policy.

17. The Commissioner is satisfied that BCC has undertaken sufficient steps to determine whether it held the requested information.
18. In correspondence with the Commissioner, the complainant indicated that he had been furnished with information from other BCC employees' which was not provided to him in response to his FOIA request. However, without evidence to suggest that BCC holds further information, this argument cannot carry weight.
19. Therefore, the Commissioner has concluded that, on the balance of probabilities, BCC has provided the complainant with all the information it holds within the scope of his request.

Right of appeal

20. 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: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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

Pamela Clements
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SK9 5AF