

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 4 August 2014

**Public Authority:** Brighton and Hove City Council

**Address:** Hove Town Hall  
Norton Road  
Hove  
BN3 3BQ

#### Decision (including any steps ordered)

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1. The complainant has requested information for various copies of documentation that was in relation to the complainant's client. Brighton and Hove City Council (the council) provided the information it held. Further information was then located and provided to the complainant following the Commissioner's enquiries. The complainant is not satisfied with the time it has taken the council to locate and provide the information it has.
2. The Commissioner's decision is that the council has breached section 10(1) of the FOIA as it did not provide the information it held within the required 20 working days following the request.
3. As the council has now provided the information it holds, the Commissioner does not require the council to take any steps.

#### Request and response

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4. On 3 October 2013 the complainant requested information of the following description:

*"We act for [company name redacted]. We should be grateful if you would provide us with a copy of all documentation including, but not limited to, letters, emails, notices, internal notes generated by Council employees, consultants, agents, legal advisors which concern our client company during the period 1 June 2009 to date. We would be happy to receive a hard or soft copy of the documentation."*

5. On the 8 October 2013 the council responded and asked whether the complainant would consider refining the request as the request may be exempt under section 12 of the FOIA.

6. On 10 October 2013 the complainant refined the request as follows:

*"We should be grateful if you would provide us with a copy of all documentation including, but not limited to, letters, emails, internal notes which concern our client company during the period 1 January 2011 to date. For the avoidance of doubt, we do not need a copy of the parking notices issued to our client as the Council has already provided us with a copy of the notices that it has retained.*

*The third party communication that we would like to see is that between the Council and: Liberty Services, NSL, Bailiffs (including IBIS and Task Enforcement), Worthing Council and Wilkin Chapman.*

*We believe that the departments that you will need to approach in order to gather these documents are: Parking; Transport Operations; Complaints; Legal and City infrastructure.*

*Our client's records also indicate that the following people have dealt with our client on behalf of the Council and although this is not an exhaustive list of those individuals that you may need to approach, it may assist with the process: [name redacted], [name redacted], [name redacted], [name redacted], [name redacted], [name redacted] and [name redacted]. We appreciate that some of these individuals may have left the Council's employment, but no doubt you would still have access to their emails and communication.*

*We would be happy for you to limit your search to computers rather than hard copy files and documents."*

7. The complainant contacted the council again on the 12 November 2013 as they had not received a response to the 10 October 2013 information request.

8. The council responded on the 13 November 2013 confirming receipt of the request and that a response would follow in due course.

9. The council provided its response on the 26 November 2013 which included the information it had located.

10. The complainant requested an internal review on the 29 November 2013 as they were not satisfied with the response received.
11. The council provided its internal review response on the 5 December 2013. The council determined that it had failed to respond within the 20 working days, but maintained the fact that it did not hold any other information within the scope of the request other than the documents known already to be in the complainant's possession. It therefore applied section 21(1) of the FOIA to withhold these.
12. On the 15 January 2014 a further request was made referring to the 10 October 2013 request, but this time for information held in hard copy rather than electronically.
13. The council responded to this request on the 17 January. It stated that it had already searched all the documentation it held, not just what is electronically held. It considered that this was a duplicate request to the 10 October 2013 request, and therefore will not be responding.
14. The complainant contacted the Commissioner on the 15 and 17 January 2014 to complain about the way the council has handled the request. The complainant stated that they do not require the information the council has withheld under section 21 of the FOIA, but they are not satisfied that they have received all of the information held by the council that falls within the scope of the request.
15. As the council consider the 15 January 2014 request to be a repeat request and as the complainant was unaware that the council had searched for both electronically and manually held documents in the original request, the Commissioner focused his investigation on whether the council holds any further information to the 10 October 2012 request.
16. During the Commissioner's investigations the council located and provided the complainant with further information on the 20 May 2014. It confirmed that it had now provided all the information it held.

### **Scope of the case**

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17. The complainant has advised the Commissioner that they are not satisfied with the time it has taken the council to provide the information it has.

18. The Commissioner considers the scope of the case is to determine whether the council has breached section 10(1) of the FOIA due to the time it took to provide the information it held.

### **Reasons for decision**

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19. Section 10(1) of FOIA states that:

*"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

20. The complainant made the initial request on the 3 October 2013 and refined it on the 10 October 2013.
21. The council provided information it held on the 26 November 2013 and further information on 20 May 2014. This is some 7 months after the request was made and refined.
22. The Commissioner therefore finds that the council has breached section 10(1) of the FOIA as it did not provide all the information it held within the required 20 working days of the FOIA.
23. As the council has now provided the information it holds, the Commissioner does not require the council to take any steps, but suggests it takes notice on the length of time it has taken to provide the information for this request.

### **Other matters**

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24. The complainant has expressed their concern to the Commissioner about the council's retention policies as the complainant considers information that the council had advised had been deleted should not have been.
25. The Commissioner is not able to determine breaches of council retention policies in this case, as this is outside his remit, but notes that the council has advised, in its response to part of the Commissioner's investigations, that:

*"...there is a current project being undertaken within ICT to develop a corporate wide records retention schedule to ensure that teams can manage retention of all records in accordance with legislation, regulation, industry guidance and the Council's corporate interests. The retention schedule under development is*

*functional in nature and aims at compliance with the International Standard for Records Management (ISO 15489) and the Lord Chancellor's Code of Practice 46. This project is ongoing.*

## Right of appeal

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26. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

27. 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.
28. 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**