

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 February 2016

**Public Authority:** Borough Council of Wellingborough

**Address:** Swanspool House  
Doddington Road  
Wellingborough  
Northamptonshire  
NN8 1BP

#### Decision (including any steps ordered)

---

1. The complainant has requested information about payments the Borough Council of Wellingborough ('the Council') has made to 'Places for People Leisure'. This company develops and manages leisure facilities on behalf of local authorities across the UK. The complainant does not consider that the information that the Council has released to him satisfactorily addresses his request.
2. The Commissioner's decision is that the Council has complied with its obligations under section 1(1) of the FOIA. He does not require it to take any steps.

#### Request and response

---

3. On 13 May 2015, the complainant wrote to the Council and requested information in the following terms:

*"Could you please supply a full breakdown of the amounts paid by the Council to Places for People under the previous agreement and the amounts to be paid to them under the new 10 year agreement."*

4. The Council responded on 11 June 2015. It said that information relating to the first part of the request is already published on its website. The Council provided the complainant with a link to its website and directed him to the page where he could find this information – on the 'Spend greater than £500' page. It released to the complainant

information regarding the second part of his request - three pages edited from a larger spreadsheet. The released information details payments the Council had made to Places for People Leisure from July 2014 to March 2015.

5. The complainant was not satisfied because he said the Council had not provided the information in the form he had asked for. The Council contacted the complainant by telephone on 18 June 2015 to clarify his request. Following this conversation the Council provided an internal review on 24 June 2015. It confirmed that the complainant had explained that he wanted evidence of what the Council had paid previously to Places for People Leisure and what was proposed to be paid in future. The Council said that this information is on its website but released to the complainant a spreadsheet that shows payments made to Places for People Leisure since 2011. With regard to future payments, the Council released a report – a Resources Committee, Head of Finance Report – to the complainant and referred him to page 17 where it said this information can be found.
6. On 25 June 2015, the complainant wrote to the Council and said that he was not satisfied with how the information had been presented. He said that he was looking for a simple table with two columns of figures under the headings 'pre-changes' and 'post-changes'. Instead, the Council had referred him to a "maze of data" and left him to extract the information he had requested.
7. During the Commissioner's investigation, the Council wrote to the complainant on 26 November 2015 with a view to resolving the complaint informally. It confirmed that in response to a previous request for information from the complainant it had told him that its contract negotiations [with Places for People Leisure] were for another 10 years. The management fee negotiated as part of the 10 year agreement would reduce to £0 per annum. This would mean that the current £405,630 per annum budget for 10 years will not be needed and that the Council would save £4,056,300 in total over the life of the life of the new contract. The Council went on to detail its telephone conversation with the complainant and its internal review; confirming the information it had released.
8. The Council told the complainant that it had identified that its initial response [of 11 June 2015] had not provided him with the breakdown of information that he had requested. It said that although it considered it had provided the complainant with the information he had requested, it could have improved how this was presented to him. It acknowledged that the spreadsheet it had released contained confusing system-related data and that this was not helpful to the complainant. Furthermore, the

link to its website did not easily direct the complainant to other, specific and relevant information.

9. In response to the complainant's correspondence of 25 June 2015, the Council said it should have provided the complainant with the information he had requested, so that a complaint to the Commissioner could have been avoided. It said that it had accepted this as a learning point for the future. The Council now released to the complainant a spreadsheet detailing payments made to Places to People Leisure prior to the new ten year agreement and provided an explanation of the information provided in the spreadsheet. With regard to future payments, the Council released an extract from the recently completed contract with Places for People Leisure that identified fees up to 31 May 2015 and those due from 1 June 2015 onwards. (For the reason given at paragraph 7, this is £nil.)
10. The Commissioner contacted the complainant on 9 December 2015 to see whether he was now prepared to withdraw his complaint. The complainant preferred to progress it as he remained of the view that the information that had now been released to him did not meet his requirement for a "simple three column spreadsheet" with columns headed 'Details' , 'Before' and 'After' that listed relevant figures against each expenditure category. The complainant expected that, when totalled, this would show the millions of pounds that the Council says the revised contract would save.

### **Scope of the case**

---

11. The complainant had contacted the Commissioner on 7 August 2015 to complain about the way his request for information had been handled. The background to his complaint is that the Council has revised the opening hours of his local gym in order to save money. The revised opening hours are not convenient to the complainant and he is seeking evidence of the savings that the Council has promoted. He does not consider that the information the Council has released answers his question about how many millions of pounds the Council will save as a result of the revised contract with Places for People Leisure. The complainant confirmed on 12 January 2016 that he preferred not to withdraw his complaint.
12. The Commissioner has focussed his investigation on whether the Council has met its obligations under section 1(1) of the FOIA, namely whether it holds the requested information and has released it to the complainant.

## Reasons for decision

---

13. Section 1(1) of the FOIA says that anyone making a request for information to a public authority is entitled to be informed by the public authority whether it holds the information and, if it does, to have that information communicated to him or her.
14. The Commissioner notes the complainant's request at paragraph 3, which was for a *"full breakdown of the amounts paid...under the previous agreement and...under the new 10 year agreement."*
15. He is aware that the complainant subsequently clarified the request in a telephone conversation with the Council on 18 June 2015, but a written form of that clarified request does not appear to exist. The complainant did however provide a further clarification of his request on 25 June 2015, when he detailed how he wanted the requested information to be presented.
16. In response, the Council released a spreadsheet that gives a breakdown of the monthly payments it had made to the previous provider, DC Leisure Management, for the years 2009/2010, 2010/2011, 2011 to Dec 2012, and for the remainder of 2012/2013, 2013/2014, 2014/2015 and 2015/2016 up to May 2015 when Places for People Leisure had taken over as the provider. The sheet provides the total amounts paid for each year.
17. With regard to payments under the new 10 year agreement, the Council also released an extract from its revised contract with Places for People Leisure that details that from 1 June 2015 onwards, the annual management fee would be £0.00. The Council told the Commissioner on 14 December 2015 that it considered that it had fully responded to the complainant's request in the format he asked for. The Council also clarified to the Commissioner that the figure for June 2015 onwards is £0.00 because, under the new contract, Places for People Leisure will no longer be charging the Council a management fee but will make a profit from running the centres in question.
18. In the Commissioner's view, these two pieces of released information address the two parts of the complainant's original request of 13 May 2015: a breakdown of the amounts paid to Places for People Leisure under the previous agreement, up to and including May 2015 and the amount to be paid under the new agreement, from June 2015.
19. In addition, and as detailed at paragraph 7, the Commissioner notes that the Council has previously explained to the complainant that under its new agreement it would save £4,056,300 over the 10 year period.

This would appear to answer the complainant's question as to how many millions of pounds the Council would save.

20. The Commissioner consequently considers that the Council has released to the complainant the information that it holds that falls within the scope of his original request. He acknowledges that the complainant went on to clarify to the Council that he had expected the information to be presented in a particular way: a simple table of two columns of figures under the headings 'pre-changes' and 'post-changes'.
21. In correspondence to him on 20 November 2015, the Council told the Commissioner that it intended to produce the information in the format and layout the complainant had requested on 25 June 2015: two columns of figures under the headings 'pre-changes' and 'post-changes'. The Council then prepared a spreadsheet that it released to the complainant on 26 November 2015.
22. The spreadsheet does not appear to the Commissioner to be in the layout the complainant had requested. It has four columns: Payment detail, Period, Amount and Payee with information and figures under each. It shows how much was paid to Places for People each month from Jan 13 to May 15, before the contract change. The separate contract extract that the Council released then makes it clear that from June 2015 – ie post the contract change – the amount that the Council would pay to Places for People Leisure will be £0.00, for the reason given at paragraph 17.
23. While not presented exactly as the complainant had requested, these two items together do, however, appear to the Commissioner to answer the complainant's question and he is therefore satisfied that the Council has provided to the complainant all the information that it holds that falls within the scope of his original request of 13 May 2015.
24. There is nothing in the request of 13 May 2015 to suggest that the complainant asked for the information to be presented in a particular way. It is only after he received the information that he said that the Council had not complied with his request because he expected it to be presented under specific headings. Because he did not request this initially, there is no obligation on the Council to consider this. The Commissioner notes that, as a result of subsequent correspondence and contact with the complainant, the Council nonetheless endeavoured to provide the information in a way that it considered would be acceptable to the complainant. In doing so, the Council went further than it was obliged to under the FOIA.

## Right of appeal

---

25. 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: 0870 739 5836

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)

26. 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.
27. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**