

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 30 March 2016

Public Authority: Halton Borough Council
Address: Municipal Building
Kingsway
Widnes
WA8 7QF

Decision (including any steps ordered)

1. The complainant has made a request to Halton Borough Council ("the council") for information about Parental Assessments. The council responded that no relevant information was held.
2. The Commissioner finds that no relevant information is likely to be held, and that the council has complied with the requirements of section 16(1) and section 10(1).
3. He does not require any steps to be taken.

Request and response

4. On 29 August 2015 the complainant requested information of the following description:

Can you please advise on the number of cases where Children's Services have:

1) Used a person's request for information under the freedom of information act to provide a negative assessment of a person's abilities.

2) Used a person's complaints about the actions of Children's Services including breaches of data protection and unacceptable behaviour to provide a negative assessment of a person's abilities.

3) What action has been taken if this is the case to remedy the situation to enable the public to have the confidence to request information under the legislation of the Freedom of Information Act and to make a complaint about the services of lack thereof provided by the council without fear of reprisal?

4) What action has been taken if this is the case to resolve issues whereby the actions as described above clearly breach the persons Human Right under Article 19 of the Human Rights Act which states:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

5. On 7 September 2015 the council responded. It advised that no recorded information was held in relation to the request.
6. The complainant requested an internal review on 7 September 2015.
7. The council sent the outcome of its internal review on 9 October 2015. It maintained that the requested information was not held, and that any search for wider information would exceed the appropriate limit provided by section 12(1).

Scope of the case

8. The complainant initially contacted the Commissioner on 13 October 2015 to complain about the basis and timeliness of the council's response to his request.
9. The council clarified to the Commissioner on 7 December 2015 that it was refusing the request under section 12(1).
10. As a result the Commissioner initially considered the scope of this case to be the determination of whether the council had correctly applied section 12(1) to the request, and the council provided submissions on this basis.
11. Having now reviewed the council's submissions it has become evident to the Commissioner that the council maintains that the requested information is not held, and that its consideration of section 12(1) relates to whether it could provide wider information to the complainant under the section 16(1) duty to provide advice and assistance.

12. The Commissioner therefore considers the scope of this case to be whether the council is likely to hold the information requested, and whether it has complied with the requirement of section 16(1) and section 10(1).

Reasons for decision

Section 1(1) – Duty to make information available upon request

13. Section 1(1) of the FOIA states that any person making a request for information is entitled to have that information communicated to them. This is subject to any exceptions or exclusions that may apply.

The complainant's position

14. The complainant has requested the number of Parental Assessments undertaken by the council where an individual's complaints or information requests to the council has caused that individual to receive a 'negative assessment' of their parental ability.
15. The Commissioner understands from the correspondence provided that the complainant is concerned that his partner has received a biased assessment as part of a Parental Assessment (due to having made associated complaints and information requests to the council).

The council's position

16. The council has informed the Commissioner that the request has been made on the premise that complaints or information requests from an individual can lead to the council providing a 'negative assessment' of that individual's parental ability during a Parental Assessment.
17. The council has informed the Commissioner that this premise is wrong, and that such factors do not influence the outcome of a Parental Assessment, which is undertaken by an appointed social worker.
18. The council has informed the Commissioner that in relation to the complainant's partner, the social worker undertaking the Parental Assessment made reference to associated requests for information and complaints as part of providing wider context to the matter, but that this did not form part of the social worker's assessment. The council has advised the Commissioner that the Parental Assessment was subsequently challenged in court, and that the judge identified no fault with the way that the Parental Assessment had been undertaken and concluded by the social worker.

The Commissioner's conclusion

19. The Commissioner must decide on the balance of probabilities whether information is held by the council that would fall within the scope of the request.
20. It is evident to the Commissioner that the request has been made on the premise that information requests or complaints submitted by an individual can lead to a negative assessment in a Parental Assessment. The council has consistently confirmed to the complainant that this premise is incorrect, and that the council would not reasonably expect any relevant information to be held.
21. It is evident to the Commissioner that the Parental Assessment for the complainant's partner has been considered in court, with there being no finding that the assessment inappropriately considered factors such as associated complaints or information requests. Having considered this, in addition to there being no evidence available that contradicts the council's position, the Commissioner must conclude that no relevant information is likely to be held by the council.

Section 16(1) – Duty to provide advice and assistance

22. Section 16(1) of the FOIA provides that a public authority should give advice and assistance to any person making an information request, so far as it would be reasonable to expect the authority to do so.
23. In the circumstances of this case it is evident that that the council has considered whether it is possible to provide wider information to the complainant (i.e. the number of Parental Assessments in which any reference is made to information requests or complaints).
24. The council has confirmed that it holds 340 completed Parental Assessments, and that to search each Parental Assessment for references to information requests or complaints would be likely to take an average of ten minutes per document. This is because Parental Assessments can be of variable length, and any descriptive words used by social workers are likely to be different (i.e. 'FOIA request', 'request for information', 'complaints', 'dissatisfaction'). As such each Parental Assessment would need to be read manually and a judgement applied as to whether the information was relevant. The council considers that undertaking this work would take approximately 56 hours.
25. Whilst the appropriate limit provided by section 12(1) only relates to a public authority's duty under section 1(1) and not section 16(1), the Commissioner considers it reasonable to use section 12(1) to inform his decision under section 16(1).

26. It is evident to the Commissioner that providing such advice and assistance under section 16(1) would incur significant costs for the council, far in excess of that proscribed for complying with section 1(1). It is also evident that providing this wider information would not in itself address the complainant's request, which as the Commissioner has noted is based on a specific premise. The Commissioner does not consider it reasonable for the council to undertake this action and on this basis does not find a breach of section 16(1).

Section 10(1) – time for compliance

27. Section 10(1) of the FOIA requires that an information request should be responded to within twenty working days of receipt. In this case a valid response was provided, and the Commissioner has not found a breach.

Right of appeal

28. 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

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

29. 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.
30. 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
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