

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 June 2016

Public Authority: Royal Borough of Kensington & Chelsea

Address: Town Hall
Hornton Street
London
W8 7NX

Decision (including any steps ordered)

1. The complainant has requested information from the Royal Borough of Kensington & Chelsea ("the Council") relating to the employment contracts of two members of the Council's staff.
2. The Commissioner's decision is that the Council does not hold any further information relating to the request.
3. The Commissioner requires the Council to take no steps.

Request and response

4. On 2 March 2016, the complainant wrote to the Council and requested information in the following terms:

"1) Royal Borough of Kensington and Chelsea employment contract for Housing Director Ms Laura Johnson.

2) Royal Borough of Kensington and Chelsea employment contract for Town Clerk Mr Nicholas Holgate"
5. The Council responded to the complainant on 23 March 2016 and stated that it was refusing his request under section 40(2).
6. On 23 March 2016 the complainant contacted the Commissioner to complain about the way his request was handled, and was advised to request an internal review.
7. The complainant requested an internal review on 18 April 2016.

8. The Council responded on 28 April 2016 and provided the complainant with copies of both employment contracts via email. On 1 May 2016 the complainant emailed the Council and stated that he could not open the attachments. On 3 May 2016 the Council sent the complainant hard copies of the documents requested.
9. On 12 May 2016 the complainant contacted the Council stating that he did not believe that he had been provided with comprehensive employment contracts. Specifically the complainant thought the following should have been included in the employment contract:

"terms of employment, future contracts, duties and functions, performance criteria, performance reviews, conduct, suspension like, remuneration, salary and bonuses, motor vehicles, superannuation, fringe benefit tax, annual leave, personal leave, termination of employment, summary dismissal, inconsistency and severance, dispute resolutions, notice and other terms."
10. On 16 May 2016 the Council responded to the complainant's email, stating that the Council had provided him with the information he had requested, which was the employment contracts. The Council also sent the complainant links to its website, where its employment policies could be found.

Scope of the case

11. The complainant contacted the Commissioner again on 20 May 2016 to complain about the way his request for information had been handled. Specifically he was concerned that the Council had failed to provide him with comprehensive employment contracts in response to his request.
12. The Commissioner contacted the Council on 10 June 2016 and advised it of the complaint he had received. He asked the Council to consider whether it held any additional information in relation to the request.
13. On 13 June 2016 the Council wrote to the Commissioner and explained that it had provided the complainant with the information requested – specifically the employment contracts of two members of its staff. It stated that it did not hold any further information in relation to the request.
14. The Commissioner has therefore had to consider whether the Council holds any additional information falling within the scope of the request.

Reasons for decision

15. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled:-

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him".

16. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.

17. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).

18. The Council explained that it has provided copies of the employment contracts for two of its employees, as requested. It has stated that these are the complete and comprehensive contracts signed by its employees, and some of the information identified as missing by the complainant can be found within the contract. To address the complainant's additional requests for information in relation to these contracts, the Council has provided him with links to its employment policies, which can be found on the Council's website.

19. Therefore the Council has stated that it does not hold any further information in relation to the request.

20. Based on the Council's submissions, the Commissioner is satisfied that on the balance of probabilities, the Council does not hold any further information in relation to the request.

Right of appeal

21. 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

22. 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.
23. 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

Rachael Cragg
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