

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 31 October 2016

Public Authority: Ceredigion County Council
Address: Penmorfa
Aberaeron
SA46 0PA

Decision (including any steps ordered)

1. The complainant requested information about the agreement with PricewaterhouseCoopers LLP ('PWC') in relation to the Risk and Reward exercise. Ceredigion County Council ('the Council') provided some information but withheld other information under section 43(2) of the FOIA. During the course of the Commissioner's investigation the Council agreed to disclose the previously withheld information. In failing to comply with section 1 within twenty working days the Commissioner finds that the Council breached section 10(1) of the FOIA. However, as the Council has now provided the information in question the Commissioner does not require the Council to take any further action.

Request and response

2. On 29 January 2016 the complainant wrote to the Council and requested information in the following terms:
 - "1. What basis of charging was agreed between the relevant parties? Was it a contingency fee or was it based on hours worked, or a combination of the two?
 2. Are there any contingency fees payable under the terms of the contract for works carried out to date in addition to the fees which have already been billed and what billing schedule and narrative has been agreed?
 3. Was a formal cost saving consultation carried out with CCC staff prior to the engagement of PWC?

4. Was the 'risk and reward' exercise the subject of a commercial tendering process and if so how many organisations were invited to tender?
 5. Was the schedule of fees payable set out in the invitation to tender and on what basis i.e hours worked or savings identified or combination of both?
 6. Has the fee structure under the contract been amended or altered in any way since it was originally agreed and if so on what terms?"
3. The Council responded on 1 March 2016 and provided some of the information requested, but withheld information relating to parts 1, 2, 5 and 6 of the request under section 43 of the FOIA.
 4. On 4 March 2016, the complainant requested an internal review of the Council's application of section 43. He also submitted a new, related, request for information.
 5. The Council provided the outcome of its internal review on 19 May 2016 and also responded to the request for information of 4 March 2016. The Council upheld its position that information relating to the fees payable under the agreement was exempt under section 43 of the FOIA.

Scope of the case

6. The complainant contacted the Commissioner on 2 June 2016 to complain about the way his request for information had been handled. He asked the Commissioner to consider whether the information requested should be disclosed and he raised concerns about the time taken by the Council to respond to his request.
7. During the course of the Commissioner's investigation, the Council acknowledged that its initial assessment of the specific information held relevant to the request was not as robust as it should have been. As a result, the Council withdrew its reliance on section 43 and disclosed the information requested.
8. Since the Council is no longer applying any exemption the Commissioner considers that the scope of this decision notice is to consider whether the Council breached the statutory time for compliance in its handling of the request.

Reasons for decision

Section 10 – time for compliance

9. Section 1 of FOIA provides for a general right of access to information held by public authorities. Section 10(1) provides that a public authority must comply with section 1 promptly and in any event not later than the twentieth working day following the date of receipt of a request for information.
10. In this case the complainant made his request for information on 29 January 2016. The Council responded on 1 March 2016 and provided some information and withheld other information under section 43 of the FOIA. On 6 September 2016 the Council disclosed the information that it originally withheld relevant to the request. As the Council did not respond to the request within the required timescale and failed to comply fully with section 1(1)(b) within the required timescale the Council breached section 10(1) of the FOIA.

Other matters

Internal reviews

11. There is no explicit timescale laid down by the FOIA for completion of internal reviews. However, the Code of Practice issued under section 45 explains that such reviews should be completed within a reasonable timeframe. The Commissioner believes that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.
12. The Council provided the Commissioner with some background information relating to its handling of requests for information. The Council acknowledged that its existing arrangements for request handling are not effective, efficient or sustainable. As a result the department in question has been undergoing a process of restructuring in order to fully centralise the management of all complaints and FOIA requests. This includes the appointment of a manager and additional support staff. These changes, once fully implemented, will provide a greater, dedicated resource for dealing with requests and prevent delays occurring in the future.
13. In this case the complainant requested an internal review on 4 March 2016 and the Council did not respond until 19 May 2016. Whilst the

Commissioner notes the Council's explanations for the delays experienced in this case, he does not consider that any exceptional circumstances existed to justify the delay. The Commissioner would like to take this opportunity to remind the Council of the expected standards in this regard and recommends that it aims to complete its future reviews within her recommended timescale of 20 working days.

Right of appeal

14. 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

15. 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.
16. 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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Wycliffe House
Water Lane
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Cheshire
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