

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 June 2018

Public Authority: Rotherham Metropolitan Borough Council
Address: Riverside House
Main Street
Rotherham
S60 1AE

Decision (including any steps ordered)

1. The complainant requested information from Rotherham Metropolitan Borough Council ("the Council") regarding meetings attended by a named councillor.
2. The Commissioner's decision is that the Council provided the complainant with all of the recorded information falling within the scope of the request which it holds, and has therefore complied with its obligations under section 1 of the FOIA.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 11 May 2017, the complainant wrote to the Council to request information of the following description:

"Please provide a list of all meetings and engagements attended by the Cabinet member for Business Growth & Regeneration from May 2014 to February 2015.

Please provide a list of all meetings and engagements attended by the Cabinet member for Housing since May 2016."

5. Both requests related to meetings attended by the same individual – a specific councillor.
6. On Friday 16 June, the Council responded to the requests and provided two lists of meetings. The Council also explained:

“Whilst the member would have attended other meetings during this period, this information is not held by the Council.”
7. The complainant requested an internal review into the handling of the requests on 23 July 2017, stating that he did not accept that a Council did not hold information about *“all meetings and engagements attended by a cabinet member”*.
8. The Council provided the outcome of its internal review on 17 August 2017. It upheld its original position, and further explained:
 - It would not hold any record of *“formal meetings which a Councillor attends in their capacity outside the Council”*, and
 - While it recorded *“Councillor attendance at meetings when this relates to Council business as a member of the Council”*, it could not meet *“the full scope”* of the information which had been requested.

Scope of the case

9. The complainant contacted the Commissioner on 11 November 2017 to complain about the way his request for information had been handled.
10. The following analysis considers the scope of the requests, and whether the Council has provided the complainant with all the information it holds falling within the scope of the requests.

Reasons for decision

Section 1 – what information is held?

11. Section 1 of the FOIA states that:

“(1) 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.”

The scope of the requests

12. During the course of the investigation, the Commissioner clarified with both parties what they considered to be the scope of the requests.
13. The Council explained why it had initially stated that it could not meet the full scope of the requests. It had considered that the scope of the requests may have been wider than for information about meetings attended by the councillor when *"on Council business"*. It therefore clarified that it does not record information about meetings attended by councillors when not on Council business, and would not hold such information.
14. The complainant clarified that he expected the Council to have details of *"all [named councillor]'s meetings with external organisations and individuals (in his capacity as a Cabinet member), as well as details of all his external engagements (in his capacity as a Cabinet member)."*
15. The Commissioner determined that an objective reading of the request is that it was for information that is held regarding meetings (internal and external) attended by the named councillor in his former capacity as Cabinet member for Business Growth and Regeneration, at the dates specified, and in his capacity as Cabinet member for Housing from May 2016 up to the date of the request.
16. The Council has subsequently confirmed to the Commissioner that it provided the complainant with *"the full list of any meeting attended by the named councillor in his capacity as a Cabinet member at the times specified, whether internal or external."*

The Commissioner's decision

17. The Commissioner has therefore considered whether the Council has provided everything which it holds falling within the scope of the requests.
18. In cases where there is a dispute over the amount of information held, the Commissioner applies the civil test of the balance of probabilities in making her determination. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held (and, if so, whether all of the information held has been provided) in cases which it has considered in the past.
19. The Commissioner has asked the Council to explain what searches were carried out for relevant information.

20. The Council explained that it *"maintains attendance records of formal meetings which a Councillor attends in their capacity as a member of the Council for example as a cabinet member."*
21. The Council specified that *"all meetings attended by a Councillor, in a Cabinet capacity, are formally recorded by the Council's Democratic Services."*
22. It stated that its response had been made in consultation with Democratic Services, and that *"the Democratic Service Manager has expert knowledge of the storage and fileplan of such attendance records and therefore appropriately interrogated the filing structure to produce the list[s] of meetings."*
23. The Commissioner has considered the Council's arguments. She notes that some confusion may have arisen from the Council's initial response, in which it stated *"while the Member will have attended other meetings during the period referred to, the Council does not hold the information"* as well as from its subsequent comment, after the internal review, that *"the full scope of information within the original request cannot be met by the Council."*
24. However, having considered the scope of the request in light of the complainant's clarification, and on an objective reading, the Commissioner is satisfied that the Council's position is that it holds a complete list of meetings attended by the named councillor in his capacity as a cabinet member at the specified times, and that it has provided all of this information to the complainant.
25. She is satisfied that the Council carried out adequate searches for this information at the time of the request.
26. In the absence of evidence to the contrary, the Commissioner is satisfied that the Council has provided the complainant with all of the relevant information which it holds falling within the scope of the request.
27. She is therefore satisfied that the Council has complied with its obligations under section 1 of the FOIA.

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

Ben Tomes
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF