

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 August 2019

Public Authority: Huntingdonshire District Council
Address: Pathfinder House
St. Marys Street
Huntingdon
Cambridgeshire
PE29 3TN

Decision (including any steps ordered)

1. The complainant requested information about the legal ownership of four properties. Huntingdonshire District Council ("the Council") denied holding information within the scope of the request.
2. The Commissioner's decision is that the request had multiple objective readings. The Council failed to ensure that it had the correct interpretation of the request and therefore the Commissioner finds that the Council breached its section 16 duty. The Commissioner also finds that the Council failed to comply with its duties under section 1 of the FOIA within 20 working days and therefore also breached section 10 of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Contact the complainant to seek clarification of his request.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 5 October 2018, the complainant wrote to multiple organisations and requested information about four specific addresses in the following terms:

"I trust that one or more of your public bodies hold records of the legal owners holding full or limited title guarantee of the following four properties. If so would you kindly provide me with that information or direct me to any other Data Controllers or Data Processors who may hold that information.

"I have tried H.M Land Registry and the Valuation Office and other Data Controllers and Data Processors with no success."

6. The Council responded on 13 December 2018. It stated that it held no information within the scope of the request.
7. The complainant requested an internal review on 5 February 2019. The Council had not completed its internal review at the date of this notice.

Scope of the case

8. The complainant first contacted the Commissioner on 3 November 2018 to complain about the way his request for information had been handled. At that point, he had yet to receive a response to his request and the Commissioner's intervention was necessary to elicit one from the Council.
9. Having received a response, the complainant then came back to the Commissioner on 26 April 2019 as the Council had not completed its internal review. In view of the delayed response, the Commissioner agreed to accept the case without an internal review.
10. After the case was accepted for further investigation, the complainant supplied arguments to the Commissioner to support his belief that the Council held further information. These arguments (discussed in more detail below) highlighted the fact that multiple objective readings of the request were possible.
11. The Commissioner explained this view and suggested to the complainant that it might be more expeditious for him to refine his request. However, the complainant asked the Commissioner to set out her view in a decision notice.
12. The scope of this decision notice is therefore to determine whether the Council correctly interpreted the request.

Reasons for decision

Clarifying requests

13. Section 1(3) of the FOIA states that:

Where a public authority—

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.

14. Section 16 of the FOIA places a duty on a public authority to provide “reasonable” advice and assistance to those making and wishing to make information requests.

15. In the Commissioner’s view, this duty requires a public authority to seek clarification of requests which are unclear or which are capable of multiple objective readings.

16. The first part of the complainant’s request stated that:

*“I trust that one or more of your public bodies **hold records of the legal owners** holding full or limited title guarantee of the following four properties. If so would you kindly provide me with that information”*

17. In arguing why further information was held, the complainant pointed out that several of the properties cited in his request had been the subject of planning applications. As part of the planning process, the complainant argued, the applicant would have had to have certified to the Council (in its role as the Local Planning Authority) either that they were the legal owner of the property in question or that they had obtained the permission of the legal owner (and the name of the person who granted such permission). As such, the complainant argued that the Council must hold some information.

18. The Commissioner noted that several of the planning applications which the complainant highlighted dated back some twenty years or more. Whilst the Commissioner accepts that this argument might suggest that the Council would hold some information indicating who had *previously* owned the properties in question, the complainant’s complaint

correspondence indicated that he was interested in the *current* legal owner.

19. Having considered the matter further, the Commissioner therefore considered that the request (especially when taken together with the complainant's other correspondence) could be seeking the *current* legal owners of the properties in question, the legal owners *at the time of the various planning applications*, or *any* information the Council held about the legal ownership at any point in time (regardless of whether the information was still current).
20. It was not clear, from the Council's responses, which objective reading it had made of the request (although the Commissioner accepts that this may not have changed its response). However, as the request was not sufficiently clear, the Commissioner considers that the Council was under an obligation to seek clarification. As the Council failed to do so, it breached its section 16 duty.

Timeliness

21. Section 1(1) of the 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.*

22. Section 8(1) of the FOIA states:

In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,*
- (b) states the name of the applicant and an address for correspondence, and*
- (c) describes the information requested.*

23. The Commissioner considers that the request in question fulfilled these criteria and therefore constituted a valid request for recorded information under the FOIA.
24. Section 10 of the FOIA states that responses to requests made under the Act must be provided "*promptly and in any event not later than the twentieth working day following the date of receipt.*"

25. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached section 10 of the FOIA.

Other matters

26. It is regrettable that the Council failed to carry out an internal review of the request within a reasonable period of time as this might have enabled the issues highlighted above to have been dealt with at an earlier opportunity. The section 45 FOIA Code of Practice¹ states that internal reviews should normally be completed within 20 working days.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

Right of appeal

27. 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@justice.gov.uk

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

28. 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.
29. 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**