

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 December 2019

Public Authority: Hastings Borough Council
Address: Queen's Square
Hastings
East Sussex
TN34 1TL

Decision (including any steps ordered)

1. The complainant has requested information held by Hastings Borough Council (the council) about the number of planning notification letters that were sent over a specific time period, and the total costs associated with this.
2. The Commissioner is satisfied that, on the balance of probabilities, the council has now provided all the information that it holds that is relevant to the request. However, as it did not provide the complainant with the relevant information within 20 working days, it is the Commissioner's decision that the council has breached section 10(1) of the FOIA.
3. The Commissioner does not require the council to take any steps as a result of this decision notice.

Request and response

4. On 24 April 2018 the complainant wrote to the council. He referred to a cabinet meeting held in December 2016 where approval was given to the '*scrapping*' of planning notification letters. He went on to say that whilst it was specified that this would result in a saving to the council of £10,000, a local councillor had recently referred to a saving of £50,000. He then went on to request information in the following terms:

'Could you please provide the following information on planning notification letters for the following years 2012, 2013, 2014, 2015 and 2016:

*Number of notification letters sent
Cost of notification letters.'*

5. The council responded on 21 September 2018. With regard to the number of notification letters sent it stated that the council '*do not hold compiled data in relation to this request.*' The council then went on to say that each application may have more than one letter of notification and advised the complainant to check the website and view each application in each year.
6. The council also advised that it did not hold any recorded information in relation to the cost of notification letters as requested.
7. The complainant requested an internal review on 22 September 2018 and the council provided its response on 16 October 2018. The council revised its previous position now confirming the following:

'The budget saving we made as part of the Council's budget setting process which agreed a £10k saving which subsequently reduced the supplies and services budget in development control's budget for this activity.

I have been advised that another officer outside of planning researched the amount of letters that were sent however the information officer was not informed of this when we responded to your original request.

A total of 25,104 letters were sent in one year at a cost of 39p each, totalling £9,790,56. This figure does not include the printing, paper or human resource costs.'

8. The council also confirmed that whilst the councillor whom the complainant had referred to in his original correspondence did not recall stating that there would be a £50,000 saving in relation to planning letters alone, he acknowledged that if he had done so, then this was an error.

Scope of the case

9. The complainant had originally contacted the Commissioner on 17 October 2018 about the council's handling of this request. At around the same time, he had also provided details of a number of other requests that he had made to the council which remained outstanding.
10. On 15 March 2019, the complainant confirmed that he still wanted the Commissioner to consider the complaint about the council's handling of this particular request on the following grounds:

- That the council had initially responded to his request to advise that no relevant information was held.
 - That following the council's internal review, it found some information was held.
 - The length of time that it took the council to deal with the request.
11. Given that the council has provided information that relates to only one of the years specified by the complainant, the Commissioner has decided that it is appropriate to investigate whether the council, on the balance of probabilities, holds any further information that is relevant to the request. She will also consider certain procedural matters as requested by the complainant.

Reasons for decision

Section 1(1)-General right of access to information

12. Section 1(1) of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by that public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
13. The council has confirmed to the Commissioner that the information disclosed to the complainant related to the year 2015, and that it does not hold the same information for any of the other years that were specified by the complainant in his request.
14. There is no evidence which would suggest that the council should, or would be expected to, hold the information requested for each year, or that it has failed to carry out adequate searches to ensure that it has identified all the relevant information. It would seem that the information for the year 2015 was only held for the purpose of the cabinet meeting held in December 2016.
15. Having considered all the information available, the Commissioner is satisfied that, on the balance of probabilities, it would appear likely that the council has provided the complainant with all the information held relevant to the request and it has therefore discharged its duty under section 1(1) of the FOIA.

Section 10-Time for compliance

16. Section 10(1) of the FOIA provides that-

'Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.'

17. In other words, section 10(1) of the FOIA provides that the confirmation and disclosure of information must be done within 20 working days of receiving a request.

18. The council has put forward a number of reasons as to why it was unable to deal with this request within the statutory time limits. It states that at the time the request was received it was having to manage an increased workload in terms of its finances and end of year accounting. In addition, there were limited staff resources due to holiday leave, vacant positions that needed to be filled, unexpected staff absences and inexperienced staff who had only just been appointed. The council also advised that certain staff resources had been diverted to manage the implementation of a new financial system.

19. The Commissioner appreciates the difficulties that borough councils sometimes face as a result of limited finances and resources. She also accepts that the council had received an unusually large number of information requests over a particular period of time that would have added to the burden of its already limited resources.

20. However, in this instance, the complainant submitted his request to the council on 24 April 2018 and was not provided with the information held that was relevant to the request until 16 October 2018. Given this, the council has failed to comply with the statutory requirement set out within section 1(1) as it did not disclose the relevant information within twenty working days following receipt of the complainant's request. On this basis the Commissioner is satisfied that the council has breached the requirement of section 10(1) of the FOIA.

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@justice.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

Andrew White
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