

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 October 2021

Public Authority: Hampshire County Council

Address: The Castle
Winchester
Hampshire
SO23 8UJ

Decision (including any steps ordered)

1. The complainant has requested information relating to the council's response statistics to FOI requests. The council initially provided some information and said that other information is available online. When the complainant said he wanted the latter information in hard copy, it applied section 14 and declared the request vexatious. During the course of the Commissioner's investigation, however, it disclosed the information to the complainant in full. The complainant believes that the council has failed to provide him with the information he requested.
2. The Commissioner's decision is that the council has disclosed the requested information as required by section 1(1) of the FOIA. However, she has also decided that the council failed to comply with the requirements of section 10(1) in that it did not disclose the information to the complainant within 20 working days.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 30 April 2020 the complainant wrote to the council and requested the following information relating to the years 2017-2019:
 1. *The number of RFI's you received for each year, either directly or indirectly.*
 2. *The number of RFI's rejected.*
 3. *The number of RFI's with which you have complied.*
 4. *The number of notices you received from the ICO you were required to answer.*
 5. *The number of CGR tribunals you were called to answer.*
5. The council responded on 19 June 2020. It provided information in respect of parts 1-3 of the request for information. However, it withheld information in relation to parts 4 and 5 of the request on the basis that the information is already accessible to the complainant as it is available online. It therefore applied section 21.
6. The complainant wrote to the council again on 23 June 2020. He argued that he does not have access to online services at home, and that he does not wish to use other public facilities due to the security risks involved.
7. Following an internal review, the council wrote to the complainant on 21 July 2020. It applied section 14 (vexatious requests) to refuse to respond to the request further.

Scope of the case

8. The complainant contacted the Commissioner 21 July 2021 to complain about the way his request for information had been handled. His initial complaint was that the council was wrong to apply section 14 to refuse to respond to his request further.
9. During the course of the Commissioner's investigation, she pointed out to the council that due to the pandemic, public libraries were closed, and unnecessary travel was restricted. She therefore expressed the view that the complainant's ability to obtain the information online would have been limited given that he had said that he did not have access to online services at home.

10. The council therefore reconsidered its position and disclosed the information to the complainant on 22 July 2021.
11. The complainant, however, argues that he has not received a response to his initial request for information. The following analysis has therefore considered whether the complainant has now had all of the information which falls within the scope of his request for information.
12. The Commissioner has also considered the time which the council took to respond to the complainant's request for information.

Reasons for decision

Section 1(1) – General right of access

13. Section 1(1) of FOIA provides 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."

14. In response to the complainant's request for information, the council clarified that it does hold the requested information. It therefore complied with the requirements of section 1(1)(a) in this respect.
15. The council disclosed the response to parts 1-3 of the request on 6 May 2020, thereby meeting the requirements of section 1(1)(b) for these questions. However, it withheld the information in response to parts 4 and 5 until its disclosure of 22 July 2021.
16. With the disclosure of 22 July 2021, the council considers that it has now met all of the complainant's requests and responded providing all of the information which he requested.
17. However, the complainant disputes that the council has disclosed the response to parts 1 -3 of his request.

18. In deciding whether the council has complied with the requirements of section 1, therefore, the question for the Commissioner is whether the council has provided a response to all of the complainant's requests for information of 6 May 2020.

Has the council responded to the complainant's request for information?

19. The Commissioner has considered the council's initial disclosure of 19 June 2020 wherein it responded to parts 1- 3 of the request. The council response detailed the numbers for each question for each year between 2017-19.
20. The Commissioner is therefore satisfied that the council has responded to these parts of the request for information in accordance with the requirements of section 1(1)(b).
21. In respect of parts 4 and 5 of the request, the council's disclosure of 22 July 2021 provided the complainant with numerical figures for the years 2017 – 2019 individually. Again, the Commissioner considers that the disclosure of these numerical figures meets the requirements of section 1(1)(b) in respect of parts 4 and 5 of the complainant's requests of 6 May 2020.
22. Following the disclosure on 22 July 2021 the Commissioner asked the complainant whether he was satisfied with the council's response to his request. In his response of 7 August 2021, the complainant said that "*I cannot find any correspondence from Hampshire County Council in answer to my original RFI. I have not received the information requested*"
23. The Commissioner notes, however, that it was the complainant who provided the council's letter of response dated 19 June 2020 to her, in a letter dated 8 December 2020, proving that that he had had a copy of that information at that time.
24. The Commissioner is therefore satisfied that the council has now responded to all parts of the complainant's request for information in accordance with the requirements of section 1(1)(b).

Section 10(1)

25. Section 10(2) of FOIA states 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."

26. The complainant made his request for information on 6 May 2020. The council disclosed the information for parts 1 to 3 of the request on 22 July 2020. This falls outside of the 20 working days required by section 10(1) of the Act.
27. Further to this, the council did not respond, disclosing the information in relation to parts 4 and 5 of the request until its disclosure of 22 July 2021. Again, this falls outside of the 20 working days required by section 10(1) of the Act.
28. The Commissioner's decision is therefore that the council's response did not comply with the requirements of section 10(1) of the Act.

Right of appeal

29. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

30. 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.

31. 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

Ian Walley
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF