

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2022

Public Authority: Lisburn and Castlereagh City Council
Address: Lagan Valley Island
Lisburn
Co. Antrim
BT27 4RL

Decision (including any steps ordered)

1. The complainant submitted an information request to Lisburn and Castlereagh City Council ("the Council") for the correspondence and invoices for three named procurements. The Council has provided copies of the invoices and has confirmed that it does not hold any further information requested under section 1(1)(a) of FOIA.
2. The Commissioner is satisfied that on the balance of probabilities, the Council does not hold any further information within the scope of the request and has therefore complied with section 1 of FOIA. However, the Council has breached section 10(1) of FOIA as it did not confirm this within the time for compliance.
3. The Commissioner does not require any further steps.

Request and response

4. The complainant made the following information request to the Council on 4 June 2021:

"I make a request under the law, for all correspondence, records including emails, phone calls, actions agreed and to include the service agreements and invoices for the following procurements:

1. Schools Cultural Exploration Project 2015/16 financial year
2. Good Relations week 2015-16
3. Cultural Showcase event 2015-16."

5. The Council responded on 28 June 2021 providing the invoices for procurements two and three and a link to the minutes of a meeting. On 19 August 2021, the complainant requested an internal review.
6. The Council provided the complainant with its response to the internal review request on 15 September 2021 in which it stated that it had provided the complainant with all the information except where information had been withheld under section 40(1) of FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 2 November 2021 to complain about the way their request had been handled.
8. During the course of the Commissioner's investigation, the Council clarified that it was an administrative error which resulted in section 40(1) being cited, when in fact it should have been section 40(2). However, as the Council has now fully disclosed the information to which the exemption applied, section 40(2) is no longer relevant.
9. Therefore, the below analysis considers whether, on the balance of probabilities, the Council holds any further information falling within the scope of the request.

Reasons for decision

10. Section 1(1) 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."

11. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
12. The Council has confirmed that staff who currently work on the named procurements undertook "thorough manual searches of hard copy files, as well as electronic systems". It further confirmed that staff who worked on the event, in 2015/2016, no longer work for the Council.

13. The Council confirmed that, in line with statutory requirements, it retained the financial information from 2015/16 for procurements two and three and that these were provided to the complainant. It also confirmed that procurement one did not incur any expenditure.
14. The Council has confirmed there is no statutory requirement to retain telephone records and emails for an indefinite period. The Council consider that any such records were unlikely to have been deleted or destroyed, however, despite a number of manual searches, the Council has not been able to find any records of telephone calls or emails in the scope of the request. The Commissioner considers the Council has conducted adequate searches for these records and is satisfied that at the time of the request the information was not held.
15. On the balance of probabilities the Commissioner is satisfied that the requested information is not held by the Council and has complied with its obligations under section 1(1)(a) FOIA in this case.

Section 10 – time for response

16. Section 10(1) of FOIA states that a public authority must respond to a request promptly and in any event no later than the twentieth working day following the date of receipt.
17. Even though the Council's response to the request was within twenty working days, it did not clarify that it had disclosed all the relevant information, within scope of the request, until the internal review. Therefore the Commissioner finds that the Council breached section 10(1) of FOIA.

Other Matters

18. The Commissioner notes that the Council has put in place a retention and disposal policy, which came into operation in 2016.

Right of appeal

18. 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

19. 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.
20. 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

Phillip Angell
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