

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 December 2022

Public Authority: Sunderland City Council
Address: Civic Centre
Burdon Road
Sunderland
SR2 7DN

Decision (including any steps ordered)

1. The complainant has requested information from Sunderland City Council ("the Council") about a DWP Counter Fraud investigation into the Council's management of its CLLD process in relation to ESF and ERDF funding distribution. The Council explained that as there had been no specific investigation undertaken by DWP Counter Fraud, therefore, it did not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold the requested information.
3. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

4. On 17 March 2022, the complainant wrote to the Council and requested information in the following terms:

"I have recently been made aware that between March and May of 2021 an investigation was carried out by DWP Counter Fraud into Sunderland Councils management of it's CLLD process in the distribution of ESF and ERDF funding in the City

Under Freedom of Information can you confirm that:

- 1/ An investigation by DWP Counter Fraud into the Council took place during the period March to May 2021
- 2/ Provide a copy of any DWP report and/or recommendations, into the management of the process, based on the assumption that an investigation did take place.
- 3/ Any changes to the Council's CLLD process and management that were implemented, again, assuming an investigation did indeed take place."
5. The Council responded on 25 March 2022. It stated that there had been no specific investigation undertaken by DWP Counter Fraud and therefore it did not hold the requested information.
6. The Council explained that, as with all ESF programmes and projects in the UK, Sunderland's CLLD programme reports to DWP on a quarterly basis and is subject to regular monitoring, verification and audit checks in line with the conditions of the Grant Funding Agreement. As part of its overall monitoring responsibility, DWP also review Anti-Fraud measures. DWP's latest audit of the CLLD Programme commented as follows: 'It is considered that the Provider is meeting the requirements of ESF and their contract with regard to anti-fraud measures.'
7. Following an internal review request, the Council wrote to the complainant on 22 April 2022 and upheld its original position, confirming that the requested information is not held. The Council added that it had made enquiries with the DWP regarding the request but had not received a response. The Council suggested that the complainant could also make enquiries directly to the DWP regarding their request.

Scope of the case

8. The complainant contacted the Commissioner on 1 October 2022, to complain about the way their request for information had been handled.
9. The Commissioner considers the scope of the investigation is to determine if, on the balance of probabilities, the Council holds the requested information and whether it has complied with section 1(1) of FOIA.

Reasons for decision

10. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the

authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.

11. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
12. From the information provided, the Commissioner can see that the Council has explained in both the original response to the complainant and in the internal review, that it does not hold such information as no specific investigation was carried out by DWP Counter Fraud.
13. On the balance of probabilities, the Commissioner is satisfied that the requested information is not held by the Council and, therefore, it cannot be provided.
14. The Council has complied with its obligations under section 1(1) of FOIA in this case.

Right of appeal

15. 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

16. 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.
17. 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

Michael Lea
Team Manager
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Wycliffe House
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