

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 February 2023

Public Authority: Carmarthenshire County Council

Address: County Hall
Carmarthen
SA31 1JP

Decision (including any steps ordered)

1. The complainant requested various information held by Carmarthenshire County Council (the Council) relating to the Dyfed Pension Fund.
2. The Council provided some information; however the complainant believes additional information is held that relates to point 12 of their request.
3. It is the Commissioner's decision that, on the balance of probabilities, the Council does not hold any additional information relevant to point 12 of the request.
4. However, as the Council failed to state this within 20 working days of receipt of the request it has breached sections 1(1)(a) and 10(1) of the FOIA.
5. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

6. The complainant submitted a twelve part request for information to the Council on 29 August 2022. Their complaint to the Commissioner relates to point 12 of their request which is as follows:

"12. How has the Dyfed Pension Fund taken into account human rights, in relation to its investment in the tobacco industry and the weaponry/arms manufacture industry, in accordance with its Responsible Investment Policy, specifically the section on 'Human Rights' which states that "The Committee recognises that it has an obligation to respect human rights... and to encourage good practice which protects against violation and exploitation" and with respect to Articles 2, 3 and 14 (among others) of the European Convention on Human Rights? Kindly provide evidence of this issue being addressed and/or discussed, for example in meetings, memoranda, press releases, newsletters etc."

7. On 7 October 2022, following further communication with the Council, the complainant requested an internal review relating to points 5 and 12 of their request.
8. Following an internal review the Council wrote to the complainant on 7 November 2022, providing further information relating to the points in question.

Scope of the case

9. The complainant has advised the Commissioner that they are not satisfied with the Council's response to point 12 of their request, stating:
- "... they have provided some information but it does not pertain to the specific request, viz. consideration of human rights in relation to tobacco/arms investments undertaken by/on behalf of the Dyfed Pension Fund."
10. The Commissioner will decide whether, on the balance of probabilities, the Council holds any information within the scope of point 12 of the complainant's request.

Reasons for decision

11. 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.
12. The Commissioner understands that the Dyfed Pension Fund (the Fund) is a local government pension scheme (LGPS) made available to all eligible employees working for Carmarthenshire, Pembrokeshire and Ceredigion County Councils, as well as a number of other eligible employing authorities.
13. The Wales Pension Partnership (WPP) is a collaboration of all eight LGPS funds (which includes the Fund) that cover the whole of Wales. The Council acts as the Host Authority for the WPP, providing administrative and secretarial support on behalf of all the LGPS funds in Wales.
14. The Council has advised the Commissioner that it has searched and scrutinised all relevant WPP documents and that it is certain that the information identified and disclosed to the complainant is all of the information that is held that is relevant to point 12 of the request.
15. The two documents that were provided to the complainant at the internal review stage, which consist of a public statement from the Dyfed Pension Fund and a public statement from the WPP and LGPS in Wales, set out some general information about the consideration given to Human Rights in relation to investments.
16. The Commissioner accepts that the information contained within the two documents provided to the complainant is not what they specifically asked for in point 12 of their request, and hence is not within the scope of that request. However, he does not regard it to have been unreasonable for the Council to have provided this information in an attempt to assist the complainant.
17. Having considered all the information currently available, the Commissioner is satisfied that there is no evidence which would indicate that any information is held by the Council that is relevant to specific terms of point 12 of the complainant's request.
18. Given the above, the Commissioner's decision is that, on the balance of probabilities, the Council does not hold any information relevant to point 12 of the complainant's request.

Procedural matters

19. Whilst the Commissioner has found above that the Council did not hold anything within the scope of point 12 of the request, the Council did not at any stage state this to the complainant. In failing to issue a response within 20 working days of receipt that accurately confirmed or denied whether it held information within the scope of point 12 of the request, the Council breached sections 1(1)(a) and 10(1) of the FOIA.
20. As the requirement for a fresh response denying that information was held had been superseded by this notice, the Commissioner does not require any step to be taken to remedy this breach.

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: 0203 936 8963

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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF