

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 December 2023

Public Authority: Local Government & Social Care Ombudsman
Address: PO Box 4771
Coventry
CV4 0EH

Decision (including any steps ordered)

1. The complainant has requested information about a complaint they made to the Local Government and Social Care Ombudsman ("LGSCO"). The LGSCO advised it does not hold recorded information within scope of the complainant's request other than that which has already been provided to the complainant.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the LGSCO holds no further recorded information relevant to the complainant's request and has complied with section 1(1) of FOIA.
3. The Commissioner therefore does not require the LGSCO to take any corrective steps.

Request and response

4. On 3 July 2023 the complainant made the following request for information under FOIA:

"Please advise the legal basis upon which [name redacted] has refused to comply with a request for disclosure dated 1 June 2023 (further clarified on 5 June 2023) made pursuant to the provisions of the Pre-Action Conduct Protocol Practice Directions."

5. On 19 July 2023 the LGSCO responded stating that it did not hold the requested information. It provided the complainant with a factsheet as to how it dealt with complainant behaviour.
6. The complainant requested an internal review on 22 July 2023. That request for internal review stated that the complainant considered that there was in fact no legal basis for not disclosing information pursuant to a request for disclosure made under the provisions of the Pre-Action Conduct Protocol Practice Directions.
7. The LGSCO provided an internal review response on 5 October 2023. The internal review stated that, although the complainant referred to a 'pre-action' letter it did not state under what Act of Parliament or which pre-action protocol this was made, so it was unable to respond. It also stated that it did not require a legal basis to deal with correspondence other than that provided under the 1944 Local Government Act.

Scope of the case

8. The complainant first contacted the Commissioner on 20 September 2023 to complain about the way their request for information had been handled and then further stated on 11 October 2023 that they were not happy with the internal review response.
9. The Commissioner has considered whether, on the balance of probabilities, the LGSCO holds recorded information within scope of the complainant's request 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 reviewed the complainant's request and has put the following query to the LGSCO:-

"Please clarify whether there is a specific note on file referring to the reason for not considering the complainant's complaint/appeal regarding the LGSCO's original refusal to investigate their complaint against the

Council regarding Ordnance Survey mapping and therefore not responding to their letters of 1 and 5 June 2023.”

12. The Commissioner notes the LGSCO’s comments in its response to the Commissioner which are as follows:-

“There are three documents explaining why we will not investigate their complaint – the decision statement, the review decision and the entry in Notes and Analysis, all of which [the complainant] has seen. Our subsequent correspondence with [the complainant] has added nothing to those reasons. Our reasons for any other decisions we have made are in our letters to [the complainant].

13. The LGSCO attached the relevant documents to its response to the Commissioner and the Commissioner is satisfied that the complainant has seen the documents as part of previous correspondence detailed by the LGSCO. The LGSCO explained that it held no further recorded information within the scope of the complainant’s request and the Commissioner sees no reason to doubt the LGSCO’s explanation. Other than state their view that there has to be a written note on the file, as detailed in the Commissioner’s query in paragraph 11 above, the complainant has not provided any evidence or reasoning that would indicate that the LGSCO does hold further relevant information.
14. Having considered all the circumstances, the Commissioner therefore accepts the LGSCO’s position that it does not hold further recorded information within the scope of the complainant’s request. As such, the Commissioner has decided that the LGSCO has complied with section 1(1) of FOIA.

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

Deirdre Collins
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