

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2021

Public Authority: Huntingdonshire District Council

Address: Pathfinder House
St Mary's Street
Huntingdon
PE29 3TN

Decision (including any steps ordered)

1. The complainant has requested evidence held by Huntingdonshire District Council (the council) regarding ownership of a particular piece of land.
2. The council refused the request because it believed it to be a repeat of a previous request made by the same complainant.
3. The Commissioner's decision is that the council was entitled to rely on section 14(2) of the FOIA in its refusal of the request.
4. However, as the council failed to issue a refusal notice to the complainant within 20 working days, the Commissioner has found there to be a breach of section 17(5) 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. On 8 November 2020, the complainant wrote to the council and requested information in the following terms:

On the Outline Planning Application Form the [name redacted] claim to be the Sole Owners of the unregistered land situated between [address redacted]. I suspect the Post Code should read [postcode redacted]. Huntingdonshire District Council refuse to disclose the residential and or service address of the [name redacted].

Would you kindly let me know if the [name redacted] have provided you with admissible evidence, or pre registration deeds, to prove that it is or it was or it will be the Sole Owner of this specific site.

7. On 17 February 2021, the council provided its response. It advised that it considered the complainant's request to be a repeat of a previous request that he had made on 28 April 2020, and that it had provided a response to that request on 13 May 2020. Furthermore, the council advised that the same queries had also been addressed in correspondence which it had sent to the complainant on 15 January 2020, 10 March 2020, and 8 April 2020.
8. The council advised the complainant that it did not believe that a reasonable interval had passed since his previous request of 28 April 2020, and therefore, in accordance with section 14(2) of the FOIA, it was not under any obligation to comply with the request.
9. On 17 February 2021, the complainant contacted the council to express his dissatisfaction with its response.
10. On 12 March 2020, the council sent the complainant a copy of an email it had previously sent to him on 19 February 2021. This advised that the council had decided not to carry out an internal review in this case; this was because it believed that decision notice IC-42859-L5R3, issued on 17 February 2021¹, had addressed all the details relevant to his current request.

¹ [IC-42859-L5R3 \(ico.org.uk\)](https://ico.org.uk)

Scope of the case

11. The complainant initially contacted the Commissioner on 17 January 2021, to complain that he had not received a response to his request of 8 November 2020 from the council. He then raised concerns about the response that the council subsequently provided to him.
12. The Commissioner will decide whether the council was correct to apply section 14(2) of the FOIA to the complainant's request.

Reasons for decision

13. Section 14(2) of FOIA says that where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request.
14. In her published guidance on section 14(2), the Commissioner advises that, in addition to the above, in response to the earlier request the authority must have provided the information to the requester, or confirmed that it does not hold the information.
15. Decision notice IC-42859-L5R3 considered the council's handling of a request made by the complainant on 28 April 2020. This request was as follows:

Huntingdonshire District Council must hold the Ownership Certificate of this Outline Planning Application.

1. Did the Applicants [name redacted] or their Agent complete and sign and date the relevant Ownership Certificate and if so was it an A, B, C or D?

2. What checks and balances were conducted by Huntingdonshire District Council to establish beyond any reasonable doubt the Applicants the [name redacted] had signed and dated the correct Ownership Certificate?

The relevant certificate must be completed, signed and dated. Only one certificate should be completed.

16. During the Commissioner's investigation into case IC-42859-L5R3, the council advised that, on 14 January 2020, it had advised the complainant that its planning services do not hold land ownership

records. It stated that it had also confirmed to him that it has no legal obligation to obtain proof of ownership following receipt of a planning application; however, it did advise the complainant that every planning application has to be accompanied by an ownership certificate, and that it did hold this in relation to planning application for the land in question. The Commissioner understands that the complainant has a copy of this certificate.

17. During the Commissioner's investigation of case IC-42859-L5R3, the council had confirmed that it had contacted the agent of the planning applicant to confirm ownership status. As the Commissioner found this information to be relevant to the request that was under consideration, the council agreed to provide a copy of its email enquiry, and the agent's response confirming that his clients were the legal owners of the land, to the complainant.
18. The Commissioner concluded in decision notice IC-42859-L5R3 that, on the balance of probabilities, the council had now provided all the information held that was relevant to the complainant's request of 28 April 2020.
19. When considering the circumstances of this particular case, the Commissioner has had regard to the other correspondence sent by the council to the complainant, which it claims provides an answer to his current request.
20. On 14 January 2020, the council, in response to a separate question by the complainant about the ownership of the land in question (in relation to another named person to that stipulated in his current request), stated the following:

Planning Services do not hold records of land ownership, the applicant/agent is required to fill out an application form (planning application) with the correct ownership details. The declaration section requires the applicant/agent to confirm that the information on the forms are to their knowledge true and accurate.
21. On 15 January 2020, following another query received from the complainant, the council repeated the information set out in its correspondence of 14 January 2020 (and provided the complainant with copies of some information relating to the relevant planning application).
22. On the same date, the complainant requested that the council provide evidence that had been provided to the council to prove that a particular named individual was 'the legal owner of land and buildings'. On 10 March 2020, the council confirmed again to the complainant that it does not hold land ownership records.

23. On 9 September 2020, the complainant made a further request to the council for information which included the name of the '*Sole Legal Owner of the Site*', and evidence that they have provided that they are the sole owner (in relation to the same land relevant to the request currently under consideration). In that case, the council referred to a previous response it provided to the complainant on 25 August 2020; this was in response to another request that he had made. Whilst the council applied section 14(2) of the FOIA to the request of 9 September 2020 (as it regarded to be a repeat of a previous request), it once again advised the complainant that it does not hold information relating to ownership of land, as it is not required to do so.

The Commissioner's view

24. The Commissioner is satisfied that the current request was submitted by the same applicant who submitted a previous request (on 28 April 2020), and therefore considers the first criteria at paragraph 12 to be met.
25. The Commissioner has gone on to consider the second criteria – whether the request is identical or substantially similar to a previous request, or requests.
26. It is part 2 of the request of 28 April 2020, which the Commissioner regards to be most pertinent to her consideration as to whether there are similarities between the two requests.
27. In part 2 of the request of 28 April 2020, the complainant asks '*what checks and balances were conducted*' by the council to ensure that the planning applicant had signed the correct ownership certificate.
28. It is the Commissioner's opinion that the current request is substantially similar to the previous request, and that there is no material difference between the information sought in part 2 of the complainant's request of 28 April 2020, and his request of 8 November 2020. In essence, they are both asking what evidence the council holds that provides proof of ownership of the land in question.
29. As a result, the Commissioner does not regard it to be unreasonable to conclude that a response to the current request would provide the complainant with the same outcome to that which he received from the council in response to part 2 of his request of 28 April 2020.
30. Furthermore, the Commissioner is satisfied that the council previously complied with the complainant's request of 28 April 2020, providing the complainant with the information held that was relevant to his request (albeit only after the Commissioner's intervention).

31. The Commissioner has gone on to consider whether a 'reasonable interval' had elapsed between the two requests. The FOIA does not define what is meant by 'reasonable interval', but it is the Commissioner's view that it is appropriate to take into account the likelihood that the information provided will differ significantly as a result of the passage of time, and the amount of time that has passed since the public authority complied with the request.
32. The Commissioner notes that just over six months had elapsed between the two requests. However, she regards it to be key to her consideration of this point that the correspondence sent by the complainant about both requests referenced the same planning application, and confirmation of the same land ownership at the time of this planning application.
33. Therefore, the requests concern information held not only about the same subject matter, but they are also about the same period in time. Given this, the Commissioner is satisfied that the difference in time between the requests, whether it be six months, or sixteen months, would not have resulted in a change in the information held that was relevant to the requests.
34. Having taken all factors into account, the Commissioner finds that the request can be categorised as a repeat request under section 14(2) of the FOIA, and that the council is not obliged to comply with it.

Section 17 – Refusal of request

35. Under section 17(5) of the FOIA a public authority that is relying on section 14 to refuse a request must give the applicant a notice stating that fact promptly and within 20 working days following the date of receipt of the request.
36. In this case the complainant submitted his request on 8 November 2020, and the council did not issue its refusal notice in response until 17 February 2021.
37. As the council failed to confirm that it was relying on section 14(2) of the FOIA within the time for compliance, the Commissioner finds that it breached section 17(5).

Right of appeal

38. 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

39. 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.
40. 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
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