

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 October 2011

Public Authority: Royal Borough of Kingston upon Thames
Address: Guildhall
High Street
Kingston upon Thames
KT1 1EU

Decision (including any steps ordered)

1. The complainant requested a copy of the minutes of a specific Council meeting from the Royal Borough of Kingston upon Thames.
2. The Information Commissioner's decision is that the Royal Borough of Kingston upon Thames failed to handle the request in accordance with FOIA.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - disclose the requested information to the complainant; or
 - issue a valid refusal notice in accordance with section 17 of FOIA.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Information Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 13 December 2010, the complainant wrote to Royal Borough of Kingston upon Thames (the Council) and requested information in the following terms:

"Please supply a copy of the minutes of the Council meeting on 23 November that discussed the new position of Director of Health and Adult Services/Chief Executive of NHS Kingston within the Council's

new structure and a copy of all accounting documents that had been prepared for that meeting to enable that meeting to evaluate that matter and make their decision".

6. The Council responded on 21 December 2010. It stated that the requested information could be found on its website and provided the complainant with the relevant link. Accordingly, it relied on section 21 of FOIA (information accessible to applicant by other means).

7. The complainant contacted the Council on 23 December 2010:

"Thank you for this response but on looking at the information on the below link they appear to be a summary and conclusion of the meeting rather than the actual minutes which would detail who said what and who voted for what. That is what I asked for in my FOI request the actual minutes recorded by the person taking the notes at the meeting. Please may I have a copy of the minutes."

8. He contacted the Council again on 14 January 2011. He told the Council that, in his view, minutes *"should be a detailed record of the meeting"*. He also told the Council that he had been told that *"you do take proper minutes"*.

9. Following an internal review the Council wrote to the complainant on 17 January 2011. It stated that:

"This Council's style of Minutes ... is not to produce a detailed account of who said what to whom at a meeting but rather a document that summarises the issue and records clearly the decision taken. ... There is only one set of Minutes and that is the document which is available on the Council's website via the link I have already sent you".

10. The complainant responded that same day. With respect to his request for *"detailed minutes"*, he told the Council:

"I want please that hand written record or a copy of it that is turned into that precise [sic] and published on the website. ... A minute recorder is I know present at all Council meetings taking minutes and that is what I am asking for under the Freedom of Information Act quite lawfully please, so whoever was the person present taking those minutes at that meeting please supply me with a copy of their notes/minutes...".

Scope of the case

11. Having first contacted the Information Commissioner about this matter in February 2011, the complainant contacted him again on 23 April 2011 to complain about the way his request for information had been handled. In support of his complainant, he said:

"Logic alone tells me that in order to produce such a record as posted on the web, notes must have been made i.e. minutes taken or they would not have been able to produce the account on the web in the form that it is".

12. The Information Commissioner considers the scope of his investigation to be whether the Council held any recorded information within the scope of the request for minutes of the meeting, as clarified by the complainant on 23 December 2010.

Reasons for decision

13. Section 1 of FOIA states that any person making a request for information is entitled to be told whether the public authority holds the information requested and, if held, to be provided with it.
14. In this case, the complainant used the phrase "*minutes of the meeting*" in his initial request for information and was provided with a copy of the official minutes, via a link to the Council's website. In response, the complainant clarified the nature of the information he was requesting.
15. The Information Commissioner acknowledges that the Council and the complaint appear to be using the term "*minutes*" to mean, respectively, the official record of the proceedings of the meeting and the notes taken at the meeting. However, in the Information Commissioner's view, the terms in which the request was clarified were clear enough for the Council to have recognised the information that the complainant was seeking.
16. The Information Commissioner considers that the Council has not handled the information request in accordance with FOIA, in that it has not issued a clear response to the complainant confirming whether or not it holds information within the scope of his clarified request.
17. During the course of his investigation, the Council confirmed to the Information Commissioner that it held information within the scope of the clarified request.
18. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the Act:

Reference: FS50389142

- disclose the requested information to the complainant; or
- issue a valid refusal notice under section 17(1).

Right of appeal

19. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

20. 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.
21. 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

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