

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 19 August 2013

**Public Authority:** Herefordshire Council  
**Address:** Brockington  
35 Hafod Road  
Hereford  
HR1 1SH

#### **Decision (including any steps ordered)**

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1. The complainant requested a copy of an audit report which KPMG produced on behalf of the council. After initially being provided with a copy of the report the complainant asked the council to provide her with a copy which included recommendations which she understood that KPMG had included with the report. The council then provided a copy of a report to the complainant which included recommendations, but clarified that this was a draft report. It said that the final report did not include any recommendations.
2. The complainant wrote back to the council stating that the recommendations which had been provided to her as part of the draft report did not match recommendations which KPMG had described to her as being included in the report. She states that KPMG verbally described the recommendations to her over the telephone. The council however confirmed that the recommendations disclosed to her were the recommendations which it received from KPMG with the draft report.
3. Having received assurances from the council that the information it disclosed was the correct information the Commissioner's decision is that, on a balance of probabilities, the council has provided the complainant with the information falling within the scope of her request.
4. The Commissioner does not require the council to take any steps.

## Request and response

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5. On 18 September 2012, the complainant wrote to the council and requested information in the following terms:

*"Thank you for sending me a copy of the audit. On receipt I spoke to you requesting a copy of the missing recommendations. After enquiring you told me that there were no recommendations.*

*KPMG has assured me that recommendations were included in the Hereford Carers Support Audit March 2012 and amount to, I believe 3 pages.*

*I shall be pleased to receive a copy of them without further delay."*

6. The council responded on 12 October 2012. It stated that it considered her request to be a request for review given that her initial request had been for a copy of the audit. The council stated that after further research it had identified that recommendations were included with the draft report however they were not included in the final report. The council provided the complainant with a copy of the draft report, including the recommendations.

## Scope of the case

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7. The complainant contacted the Commissioner on 20 November 2012 to complain about the way her request for information had been handled. She said that KPMG had read out the recommendations over the telephone to her and that the recommendations provided in the draft report did not match those. She considered that the recommendations provided by the council may be recommendations produced by the council rather than those provided by KPMG. She asked the Commissioner to consider whether the council holds a copy of the recommendations made by KPMG.

## Reasons for decision

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8. The Commissioner wrote to the council and informed it that the complainant had had a description of the recommendations provided by KPMG and that the recommendations disclosed to her in the draft report did not match those. He asked the council to clarify whether the correct information had been provided to the complainant and asked a number of questions regarding whether further recommendations were held.
9. The council responded. It said that the complainant had approached KPMG without its knowledge and so it was unable to comment on what KPMG had told her. It said that the draft report had contained recommendations made to it by KPMG however these recommendations had not been included in the final copy of the report. The council had however disclosed the draft report and the recommendations it had received from KPMG to her. It confirmed that no other recommendations are held.
10. The Commissioner has considered the above. The council has responded to the complainant and provided a copy of the recommendations it says it received from KPMG. It has not searched for further information because it says categorically that the information it disclosed is the information it received from KPMG.
11. The complainant has described her reasons for believing that the recommendations which were provided to her by the council were not correct. The Commissioner does not doubt the genuineness of the complainant's belief that other recommendations were produced by KPMG. There is however no other evidence to refute the council's categorical statement that the recommendations it provided to her were those it received from KPMG with the draft report and no evidence to suggest that those recommendations reported verbally by the third party were actually received by the council in this instance.
12. In the face of this seeming disparity between the position of both the requestor and the council the Commissioner must make a decision, based upon a balance of probabilities, as to whether further recommendations are held by the council. Given the categorical denial by the council that any other recommendations are held by it and its assurances that the information provided to the complainant is the information it received from KPMG the Commissioner's decision must be that on a balance of probabilities, no other information is held falling within the scope of the complainant's request.

## Right of appeal

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13. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

14. 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.
15. 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 .....**

**Andrew White**  
**Group Manager, Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**