

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 February 2015

Public Authority: Royal Borough of Greenwich
Address: Finance Department
Floor 3
The Woolwich Centre
35 Wellington Street
Woolwich
London
SE18 6HQ

Decision (including any steps ordered)

1. The complainant has requested from Greenwich Council information on the document retention/archiving/FOI training received by the "accountable" person(s) in the Directorate of Regeneration, Enterprise and Skills from 2009 to date.
2. The Commissioner's decision is that Greenwich Council does not hold any recorded information falling within the scope of the complainant's request based on a balance of probability test.
3. Accordingly, the Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

Request and response

4. On 27 October 2014, following an extensive exchange of correspondence with the council on the subject of document retention and archiving, the complainant wrote to it again and requested information in the following terms:
*"Given the wording of your previous emails and the length of time it has taken to forward this material to me, I had expected something more detailed and specific. However, having read the material, it is all rather generic and vague, and does not clarify how individual departments work on a day to day basis. So **I am asking further questions.**"*

1. *It is my understanding that responsibility for document retention and archiving starts with individual officers, who may or may not have this written into their job descriptions. These individuals are answerable to their Departmental Director, who in turn answers to the Chief Information Officer. At the very top of the pyramid structure is the Chief Executive Officer. **Could you confirm or correct this please?***
2. *Again, it is not entirely clear from the Retention Guidelines for Local Authorities under which heading, for example, the wide range of activities undertaken by the Directorate of Regeneration, Enterprise and Skills is governed under these regulations. I am guessing that Sections 10 and 11 are relevant. **Could you confirm whether or not I am correct and if any further Sections apply, please?***
3. *As the above mentioned Directorate has seven overall areas of responsibility could you please tell me whether there is one designated "accountable individual" as per the 2004 RBG Policy, for the whole Directorate, or is there an accountable individual for each of the seven areas of responsibility, or perhaps even more? **Could you clarify please?***
4. *The 2004 policy documents (Annex 2) state that "records are complete and accurate and the information they contain is reliable and its authenticity can be guaranteed". In the event that a councillor or member of the public should find that a document is NOT accurate, the policy does not say how this could be put right. **Therefore, what is the proper procedure for an amendment to be made to an archived document?***
5. *The policy documents make several references to appropriate training. However, there is no indication of what this might be, or when it happens. **Therefore, I should like to have details of the document retention/archiving/FOI training received by the "accountable" person(s) in the Directorate of Regeneration, Enterprise and Skills from 2009 to date?***

These questions could be asked regarding most of the Directorates, but I shall confine my enquiries to this single Directorate."

5. The council responded on 11 December 2014. In relation to the 5 questions listed in the complainant's request, it stated as follows;

"1. Yes the Chief Executive has the overall responsibility for ensuring that records are managed responsibly within the Council.

2. *Several sections of the Retention Guidelines for Local Authorities are relevant to the Directorate of Regeneration, Enterprise and Skills. They are:*

Section 2.13 – 2.16 – Management and Administration

Section 8 – property and Land Management

Section 10 – Planning and Land Use

Section 11 – Infrastructure and Transport

Please find attached copies for ease of reference.

3. *The person responsible within DRES is (name redacted), Head of Business Development and Resources.*
4. *Where it is raised that a document is not complete or accurate this will be investigated and where appropriate the document amended and/or a file note will be added to the file.*
5. *Training is on-going which will include legal advice as and when required.”*

Scope of the case

6. The complainant contacted the Commissioner on 21 December 2014 to complain about the way her request for information had been handled. In particular, she said that was unhappy with the council's response to questions 4 and 5 of her request. However, for the purposes of the Commissioner's investigation under the FOIA, she said that she was prepared to restrict the scope of her complaint to the council's response to question 5 of her request.

Chronology

7. On 23 December 2014, the Commissioner wrote to the council and stated that its response to question 5 of the complainant's request did not identify what recorded information (if any) it held. Accordingly, he asked the council to provide him with all the recorded information it held falling within the scope of the request but added that if it did not hold any information it should explain what enquiries and searches it had carried out to arrive at this conclusion.

8. The council responded on 15 January 2015 and stated that an electronic search of the e-mail account of the "accountable" person in the Directorate of Regeneration, Enterprise and Skills from 2009, who had held this position up to March/April 2014, had been carried out but no recorded information had been found. The council also stated that an electronic search of the current post holder's e-mail account who had been in post since March/April 2014, had been carried out but again no recorded information had been found.
9. The Commissioner responded on 19 January 2015 and enquired as to whether the council had carried out any additional enquiries and searches. For example, by contacting its HR department for details of any training courses attended or training received by the accountable person.
10. The council responded on 15 January 2015 and confirmed that further searches were carried out throughout the council including its HR department and planning directorate but no recorded information falling within the scope of the request was found. The council explained that the normal procedure was for details of training courses attended by the relevant officers to be held by their directorate and not the HR department.

Reasons for decision

Section 1(1) of FOIA

11. Section 1(1) states that:

"Any person making a request for information to a public authority is entitled:-

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him".

12. In scenarios where there is a dispute as to whether a public authority holds any recorded information falling within the scope of a request the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
13. In other words, in order to determine such complaints the Commissioner must decide whether on the balance of probabilities a public authority holds any recorded information falling within the scope of a request (or was held at the time of such a request).

14. The complainant has disputed council's claim that it does not hold recorded information within the scope of question 5 of her request.
15. The Commissioner has investigated the complaint by returning to the council and asking it a number of questions in order to determine whether it held any recorded information sought by the complainant.
16. The Commissioner asked the council to detail the enquiries and searches it had carried out to identify and locate any of the requested information.
17. The council explained to the Commissioner that it had carried out searches of the emails accounts of the previous and current accountable persons in the Directorate of Regeneration, Enterprise and Skills but did not identify any recorded information falling within the scope of the request. It also said it had made further enquiries with its HR department and the relevant directorate but no training records falling within the scope of the complainant's request had been found.
18. Although the complainant has concerns regarding the quality of the council's record keeping she has not been able to produce any evidence to show that the accountable person received any specific training referred to in the request which should have been recorded.
19. The Commissioner acknowledges the complainant's concerns over the quality of the council's record keeping. However, based on the submissions provided by the council, the Commissioner is satisfied that on the balance of probabilities the requested information is not held.

Right of appeal

20. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.

22. 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

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