

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 October 2015

Public Authority: Northumberland County Council

Address: County Hall
Morpeth
Northumberland
NE61 2EF

Decision (including any steps ordered)

1. The complainant has made a request to Northumberland County Council ("the council") for information about spending on broadband provision. The council provided held information, but the complainant contested whether this was complete.
2. The Commissioner's decision is that the council has disclosed all held information. However in failing to disclose all held information within the time for compliance the council breached section 10(1).
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 27 January 2015 the complainant wrote to the council and requested the following:

"I would like to make a Freedom of Information request for information on monies spent by NCC (both their own and matched funding from Government) to date on Superfast Broadband support and exactly where this money has been spent on which infrastructure items."
5. The council responded on 24 February 2015. It provided some information and withheld some under the exemption provided by section 43(2).
6. The complainant sought an internal review of this response on 24 February 2015.

7. On 24 March 2015 the authority provided the outcome of its internal review. It revised its position and disclosed all information previously withheld under section 43(2).

Scope of the case

8. The Commissioner considers the scope of this case to be the determination of whether further recorded information is likely to be held by the council.

Reasons for decision

Section 1(1) – What information is held

9. Section 1(1) states that any person making a request for information is entitled to be informed by the public authority whether it holds the information, and if so, to have that information communicated to them. This is subject to any exemptions or exclusions that may apply.

The complainant's request

10. The complainant has requested information about payments made by the council to British Telecom ("BT") to increase broadband provision in the local area.
11. It is evident from reviewing the provided correspondence between the parties that the complainant considers the council should hold information that exactly details how BT have spent the public monies it has received; particularly in relation to infrastructure components and their location.

The council's position

12. The council has advised the Commissioner that the level of detail sought by the complainant's request is beyond that which is held in recorded form by the council.
13. The council has elaborated that the information held by the council (and disclosed in response to the request) derives from quarterly financial reports that BT submits to the council in order to enable assurance of the work so far undertaken. The detail contained in these quarterly financial reports is nationally agreed by Broadband Delivery UK, which is a delivery body overseen by the Department for Culture, Media and Sport. As such, the council's position is that no further information is held beyond that which BT is required to provide the council.

The Commissioner's conclusion

14. The Commissioner must decide on the balance of probabilities whether further information is held by the council that would fall within the scope of the request.
15. Whilst the Commissioner has noted the complainant's reasons for why he considers that further detailed information should be held, there is no visible evidence to suggest that the council's response is incomplete. Having identified that the information held meets the nationally agreed standards set by the responsible public authority, the Commissioner must conclude that there is no statutory requirement or business need for the council to hold further recorded information beyond that provided.

Section 10(1) – time for compliance

16. Section 10(1) requires that where a public authority has a duty under section 1(1), it must comply with that duty within twenty working days following receipt of the request.
17. The Commissioner has identified that the council provided relevant held information outside of 20 working days, and as such breached the requirement of section 10(1).

Right of appeal

18. 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

19. 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.
20. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF