

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

### **Decision notice**

**Date:** 20 November 2017

**Public Authority:** Haringey Council  
**Address:** 6<sup>th</sup> Floor, River Park House  
225 High Road  
Wood Green  
London N22 8HQ

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

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1. The complainant requested from Haringey Council ('the Council') correspondence between members of Haringey Residents Scrutiny Panel (RSP) and 'Homes for Haringey' (HFH) officers. HFH is an Arms Length Management Organisation associated with the Council. Having originally confirmed that it held no relevant information, the Council went on to identify and disclose information falling within the scope of the request during the course of the Commissioner's investigation.
2. The Commissioner's decision is that:
  - The Council has now complied with its obligations under section 1(1) of the FOIA.
  - The Council breached section 10(1) as it did not comply with section 1(1) within 20 working days.
3. The Commissioner does not require the public authority to take any further steps to ensure compliance with the legislation.

## Request and response

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4. On 12 October 2016, the complainant wrote to the Council and requested information in the following terms:  
  
*"Could I also see any correspondence between the RSP (most likely [Named Individual 1]) and HFH officers (most likely [Named Individual 2]) dating from between 1st April and 1st October 2014 which relates to the provision to the RSP by HFH of copies of the recognition criteria / the Resident Involvement Agreement for use by the RSP in their investigation into the HLA [Haringey Leaseholders' Association]?"*
5. On receipt of a response from the Council, on 10 November 2016 the complainant clarified the request as follows:  
  
*"Just for clarity can I see any correspondence not just FROM [Named Individual 2] to any RSP member but also TO [Named Individual 2] from any RSP member that relates to either the Recognition Criteria or the RIA from the same period? Can I also see any correspondence from [Named Individual 2] (or any other officer, perhaps [Named Individual 3]) that either actually itself provides the RSP with copies of the criteria or the agreement (probably as an attachment) or talks about doing so in another way (by hand?) even if no reference to these documents per se is made in the body of the email itself? For instance if there is a reference it might be a general one such as 'documentation for your investigation' or so."*
6. The Council responded to this request on 18 January 2017. It indicated it had identified four emails that contained broad references to a request for recognition guidelines and confirmation of dates. The Council confirmed the report to which the complainant had referred (the Resident Involvement Agreement [RIA]) was not contained in any of the emails.
7. On 19 January 2017 the complainant requested to see the four emails. In correspondence dated 26 January 2017, the Council noted that the FOIA provides a right to recorded information and not to documents.
8. The complainant requested an internal review on 26 January 2017 and the Council sent him the outcome of its review on the same day. The Council confirmed its position that the FOIA provides a right to information and not to documents. It said that, in any case, it considered the four emails concerned did not specifically address the complainant's request and provided summaries of two of the emails as examples.

9. At that stage, the complainant considered that the four emails should be disclosed to him and the matter was referred to the Commissioner.

## **Scope of the case**

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10. The complainant contacted the Commissioner on 13 March 2017 to complain about the way his request for information had been handled.
11. The Commissioner's investigation has focussed on whether the Council has complied with its obligations under section 1(1) and section 10(1) of the FOIA.

## **Reasons for decision**

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### **Section 1 – general right of access to information**

12. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled (a) to be told if the authority holds the information and (b) to have the information communicated to him or her if it is held.
13. In its initial submission to the Commissioner dated 18 August 2017, the Council confirmed that the complainant's request was for correspondence between officers (who had since left the organisation) and members of the RSP between 1 April 2014 and 1 October 2014. It confirmed that the correspondence that was of interest to him is any related to 'recognition criteria' or the RIA, for use by the Residents Scrutiny Panel in its investigation into the Haringey Leaseholders Association.
14. The Council said that any such correspondence would have been via email. As the relevant members of staff (Named Individual 2 and Named Individual 3) had left the organisation, another member of staff undertook the search, who arranged to gain access to these two accounts. That member of staff had also then left.
15. The Council said that it was unlikely that any such correspondence would have been saved to shared team folders, but that relevant folders within the HFH Governance team were nonetheless searched. The Council confirmed that the personal folders of the two staff members concerned were not searched as they were not available. Following clarification from the Council, the Commissioner understood 'personal folders' to mean any folders on those officers' 'personal' drives which would have been deleted when those officers left.

16. The Council has told the Commissioner that it had searched for relevant information within the email accounts concerned and, with regard to Named Individual 2, the shared 'governance' email folders, using: the email addresses of members of the RSP at the time (including Named Individual 1); and the search terms 'Resident Involvement Agreement', 'Recognition Criteria' and 'RIA'.
17. The Council confirmed that no relevant information was deleted or destroyed and that the result of its systematic search of email accounts and shared folders was that no information relevant to the complainant's request was identified.
18. The Council did, however, confirm that two emails had been identified but that neither of these fell within the scope of the complainant's request. The Council provided the Commissioner with copies of these two emails and she was able to confirm that this was the case. The Council advised that it was nonetheless prepared to voluntarily release to the complainant one of these two emails – an email dated 17 October 2014 – which it did on 11 October 2017.
19. When the Commissioner had originally written to the Council regarding the complaint in July 2017, she had asked the Council to provide her with copies of the four emails it had referred to in its correspondence with the complainant. In its initial submission, the Council told the Commissioner that these emails were not extracted from the mailboxes searched at the time (that is, in January 2017) and that the member of staff who undertook this original staff is no longer with the Council. It was therefore unable to locate these four emails at this point. Its position with regard to these emails remained that they had not fallen within the scope of the request. The Council indicated that it intended to undertake further searches and would update the Commissioner on the outcome.
20. In correspondence dated 15 September 2017, the Council told the Commissioner that it had sought and obtained access to the two email accounts again and a search had been conducted using the above search terms. As a result of this search it had identified two further emails and again, although it considered that they did not fall within the scope of the request – because they were emails between officers – the Council said it would voluntarily disclose these to the complainant. The Council provided the complainant with this information on 7 November 2017.
21. During the Commissioner's investigation, the complainant queried why, if it had been able to find other information presumably by searching the same accounts and using the same search criteria, the Council had not been able to retrieve the four emails identified originally.

22. The Council explained to the Commissioner that it could not confirm whether any of the emails subsequently found were also part of the four emails above. The officer who had conducted the original search had left. The Council confirmed to the Commissioner it nonetheless was able to ask this officer what search terms she had used, from memory. It then replicated the search the officer remembers carrying out. The Council said it was feasible that the one (or more) of the emails it subsequently identified was also one (or more) of the original four emails.
23. During her investigation, the complainant also suggested to the Commissioner that the Council should search for relevant information using further search terms, which he specified. The Council carried out these further searches and in correspondence dated 1 November 2017 confirmed that, as a result, it had retrieved particular information, which it shared with the Commissioner. The Commissioner agrees with the Council that some of this information does not fall within the scope of the complainant's request. Some of the information was within the scope of the request, however, and the Commissioner advised the Council to disclose this to the complainant, which it did on 7 November 2017.
24. The complainant had one further question regarding other information he considered the Council could hold. The Council confirmed on 8 November 2017 that it holds no other relevant information and, at that point, the complainant was prepared to accept this to be the case. He also acknowledged that the Council had voluntarily provided him with some information that was outside the scope of his request and which he had found very helpful.

### **Section 10 – time for compliance**

25. Section 10(1) says that a public authority must comply with section 1(1) as soon as possible and within 20 working days following the date of receipt of the request.
26. In this case, the complainant submitted his clarified request on 10 November 2016. The Council did not communicate all the information it holds that is relevant to the complainant's request until 7 November 2017 and did not convincingly confirm that it holds no further relevant information until 8 November 2017. Clearly, this is a significant breach of section 10(1).
27. The Commissioner notes that most of the information the Council identified during her investigation fell outside the scope of the complainant's request but that it had nonetheless provided this to him voluntarily. While only a small amount of relevant information was

identified, the complainant has indicated to the Commissioner that he has found this information very useful. The Commissioner therefore reminds the Council that it must carry out appropriate and thorough searches for held information at the point that it receives a request so that it can confidently comply with its obligations under section 1(1) within the required timescale.

## Right of appeal

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28. 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](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

29. 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.
30. 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 .....**

**Pamela Clements**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**