

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 25 January 2018

Public Authority: Lancaster City Council
Address: Town Hall
Dalton Square
Lancaster
LA1 1PJ

Decision (including any steps ordered)

1. The complainant has requested costing information relating to planning applications relating to a specific address.
2. The Commissioner's decision is that Lancaster City Council ("the Council") has correctly applied section 1 of the FOIA.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 29 March 2017, the complainant wrote to the Council and requested information in the following terms:
"I now refer you to the final 3 paragraphs of my letter of the 19th March and now add that costings should now be made available through the Freedom of Information Act. I formally request full information. This I am aware will take some time to trace even though the first [planning] application was lodged in February 2016 due to the amount of information and applications submitted. The other investigations should be implemented immediately."
5. The Council responded on 5 April 2017. It stated that it did not hold the requested information because it did not keep a record of the amount of officer time spent processing planning applications.
6. Following an internal review the Council wrote to the complainant on 21 April 2017. It maintained that it did not hold the requested information.

The Council explained that its Planning and Enforcement Officers do not complete timesheets based on how much time is spent on specific jobs.

Scope of the case

7. The complainant contacted the Commissioner on 3 July 2017 to complain about the way her request for information had been handled.
8. The Commissioner considers that the scope of the case has been to consider whether the Council dealt with this request correctly in accordance with section 1 of the FOIA.

Reasons for decision

Section 1- General right of access to information held by public authorities

9. Section 1(1) of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information relevant to the request and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner follows the lead of a number of First-tier Tribunal decisions in applying the civil standard of the balance of probabilities. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds information which falls within the scope of the request.

The complainant's position

11. In her submissions to the Commissioner, the complainant suggested that the Council holds information within the scope of the request because she had received similar information in a separate case.
12. The complainant informed the Commissioner that the information she had received from the Council related to the cost of an investigation in to the conduct of the Council in a standards committee complaint. In her view, this provided evidence that the specific costs information requested here would be held and could therefore be provided.

The Council's position

13. After the complainant submitted an internal review request, the Council explained that Planning and Enforcement Officers do not complete timesheets based on how much time is spent on specific jobs.
14. The only timesheets officers complete are for the purpose of the Council's flexitime system, and this only records the number of hours worked each day.
15. In its submissions to the Commissioner, the Council stated that there was no need for the Council to perform any search of its systems, as it has never been Council policy to collect or retain the requested information.
16. The Council considers that it has no statutory requirements to record the amount of time spent dealing with individual applications, or the cost of doing so, and it did not have any other reason to record this information. Therefore, it believed it had complied with section 1 of the FOIA.
17. In her submissions to the Council, the Commissioner asked for clarification on whether or not the total cost of the investigation into the breach of the code of conduct included information relating to the cost of officer time. If so, the Commissioner requested the Council to explain why the Council kept cost information relating to breaches of codes of conduct investigations and not to the consideration of planning applications within the area.
18. In its response, the Council explained that the code of conduct investigation to which the complainant refers was carried out by an external organisation. The Council clarified that the figure for investigation carried out was entirely made up of payments to a third party and therefore had no relation to the Council's officer time spent on any case.
19. The Council has further clarified that it does not hold any other information that might be considered relevant to the request.

Conclusion

20. The Commissioner has considered the Council's submissions on this matter. This has included consideration of the searches for recorded information that the Council has undertaken, and the stated absence of any known business or statutory reasons for which the information should be held.
21. The Commissioner has therefore concluded, on the balance of probabilities, that no relevant recorded information is held by the Council.

Right of appeal

22. 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

23. 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.
24. 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

Alun Johnson
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF