

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 January 2017

Public Authority: Warwick District Council

Address: Riverside House
Milverton Hill
Leamington Spa
CV32 5HZ

Decision (including any steps ordered)

1. The complainant asked Warwick District Council for the cost of the G L Hearn Ltd Hotel Study on St. Mary's Lands issued in March 2017.
2. The Commissioner finds that the Council provided the complainant with the information she asked for and therefore she has decided that the Council has complied with section 1 of the FOIA.
3. No further action is required in this matter.

Request and response

4. On 22 July 2017, the complainant wrote to Warwick District Council and requested information in the following terms:

"I request under the Freedom of Information Act 2000 to know the cost of the G L Hearn Hotel Study on St. Mary's Lands issued in March 2017."

5. The Council sent its response to the complainant on 27 July 2017, advising her that:

"The total cost of the study was:

£6,793 for G L Hearn

£13,250 for Bridget Baker

Total £20,043 excluding VAT"

6. The Council informed the complainant that:

"The executive made the decision to commission the study. Tenders were sought from 6 companies though only 2 were returned. Some of the additional work was done following a request to attend the Working Party and make a presentation which is included in the above costs".

7. The complainant wrote back to the Council on 17 July and asked whether the figures it had sent her had come from [a named person's] office. The Council confirmed this later that day and it advised the complainant that, "Not all were paid in 2016/17 some were this financial year".

8. Later the same day, the complainant sent another email to the Council in which she clarified what she required in respect of her information request: She stated that she had been told, "...the invoice has now been received from G L Hearn so the total cost should be available".

9. The Council responded to the complainant by informing her that; "The figures I gave you include the costs across both years. They are the total cost excluding VAT".

10. In a further email of 27 July, the Council informed the complainant that:

"The cost incurred in the current financial year (2017/18) was £6,793 for G L Hearn. In 2016/17 it was £13,250 for Bridget Baker. This work has now been completed and all invoices have been paid.

The 2 companies had worked together on the study but invoiced separately."

11. The complainant responded to the Council's clarification email on 1 August: She complained that, "the answer I was given under the Public Inspection of Accounts was that there were no costs in the last financial year for this report [2017 Accounts] but that the invoice was paid in May this year. I should therefore have been given the total cost of the G L Hearn Report". The complainant then asked the Council to conduct an internal review.

12. The Council responded to the complainant's email on 2 August. The Council stating:

"The total costs of the G L Hearn report regarding the hotel are set out within the email from Mr Elliott. He explains that there were two aspects one in (2017/18) was £6,793 for G L Hearn and one in 2016/17 it was £13,250 for Bridget Baker. Providing the cost of this work of £20,043."

13. The complainant wrote to the Council to explain that she already knows the cost of the Bridget Baker report was £15,900 and that the invoice from G L Hearn came in during May. She said that, "I was told there was no costs in the last financial year so there is a discrepancy here".
14. On 7 August, the Council informed the complainant that it would not progress her complaint to an internal review. The Council confirmed the cost of the G L Hearn report as being £6,793 and it advised her that the work was a joint commission across two companies; the other being Bridget Baker Consulting Ltd. The Council also confirmed that it had provided the complainant with the information she had requested and that this had come from the Council's accountancy software against the appropriate cost code.

Scope of the case

15. The complainant contacted the Commissioner on 15 August 2017 to complain about the way her request for information had been handled.
16. The complainant stated her belief that the Council had given her incorrect information.
17. The complainant informed the Commissioner that there had been two reports; one made by Bridget Baker Consulting Ltd, where the Council had paid £15,900 for 45 pages, and the second made by G L Hearn Ltd, where the Council had paid only £6,000 for 69 pages.
18. The complainant drew the Commissioner's attention to 'discrepancies' between the information which the Council provided in response to her request for information, and the information which was given in response to requests made under the Public Inspection of Accounts 2017.
19. The Commissioner decided that the focus of her investigation would be to determine whether the Council has handled the complainant's request in accordance with the FOIA, and specifically, to determine whether the information held on the fee paid to G L Hearn Ltd corresponds with the information given to complainant in response to her request for information.

Reasons for decision

Section 1 – General right of access to recorded information

20. Section 1 of the FOIA states that –

“(1) 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.

21. To determine whether the Council has complied with the complainant's request, the Commissioner asked the Council to provide her with copies of the invoices provided to the Council by G L Hearn Ltd and Bridget Baker Consulting Ltd. the Commissioner also asked the Council questions concerning how it accounted for the payments made to these companies.
22. The Council provided the Commissioner with a copies of the relevant invoices. The Council drew the Commissioner's attention to the G L Hearn Ltd invoice, pointing out that it confirms the figures which it had previously disclosed to the complainant.
23. The Council explained that the invoice from Bridget Baker Consulting Ltd was received in March and therefore the Council was able to process that invoice for preparation of its 2016/17 account.
24. The Council further explained that, the 2016/17 accounts recorded the G L Hearn Ltd as 'No Costs' because that company did not send its invoice until the end of April 2017. In consequence of this, the amount paid by to G L Hearn Ltd could not be accounted for in the Council's 2016/17 accounts, and it will appear in the 2017/18 accounts.
25. The Council asserts that it explained these figures to the complainant in a letter of 28 July 2017 from its Council's Chief Executive. The complainant was informed that:

“The cost incurred in the current financial year (2017/18) was £6,793 for G L Hearn. In 2016/17 it was £13,250 for Bridget Baker. This work has now been completed and all invoices have been paid.

The 2 companies had worked together on the study but invoiced separately.”
26. At the time the Council received the complainant's request, the Council held a copy of an invoice supplied by G L Hearn Ltd. Nevertheless, it strongly asserts that it provided the complainant with the information she had specifically asked for, namely “...to know the cost of the G.L. Hearn Hotel Study on St. Mary's Lands issued in March 2017.”

27. The Council points out that the complainant did not ask for invoices and therefore neither invoice was disclosed. The Council notes that the complainant received the a copy of Bridget Baker's invoice (£13,250 + VAT) on 19 July 2017 as part of the information supplied to her relating to her 2016/17 public inspection of accounts request and not following her request made under the FOIA.
28. The Council considers that it has been very clear about the costs incurred from both consultancies. The Council assure the Commissioner that it made a decision to go out to tender in a public report and that it allocated a sum of money to cover the likely cost. A number of companies were approached and 2 tenders were received.
29. One was a joint submission by GL Hearn Ltd as the principal consultancy with Bridget Baker Consulting Ltd as the subsidiary one. Each company invoiced the Council separately and in different financial years hence the difference reporting in our accounts of their costs.
30. The Council made clear that the length of the reports submitted by each company is not material to the amounts the Council paid. The Council assures the Commissioner that the consultancy cost is based largely on the time taken to undertake the work and, as Bridget Baker Consulting Ltd undertook a lot of research and spent considerable time in meetings, the amount paid was greater than that paid to G L Hearn as its work was desktop research and therefore less time consuming.

The Commissioner's decision

31. The Commissioner has decided that the Council has complied with section 1 of the FOIA by providing the complainant with the cost of the G L Hearn Hotel Study on St. Mary's Lands issued in March 2017.
32. The Commissioner is satisfied that the figures disclosed to the complainant are correct. She accepts that the Council was unable to account for the payment made to G L Hearn Ltd in its accounts for 2016/17 although it could have considered providing the complainant with a copy of the invoice received from this company, as the Council held this information when it received the complainant's request.
33. By providing the complainant with the G L Hearn invoice – suitably redacted, the Council would have taken an action which the Commissioner would interpret as providing advice and assistance under section 16 of the FOIA. Taking this action might have mitigated the complainant's need to bring this complaint to the Commissioner. However, the Commissioner is of the view that the strict parameters of the request, which is precise in its requirement, has been dealt with.

34. In light of this, no breach of section 16 is found, but the Commissioner does suggest that it is an example of where a little further engagement could have helped clarify the initial misunderstanding upon which the request and follow up was based.

Right of appeal

35. 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

36. 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.
37. 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