

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 June 2020

Public Authority: Norfolk County Council
Address: County Hall
Martineau Lane
Norwich
Norfolk
NR1 2DH

Decision (including any steps ordered)

1. The complainant has requested information from Norfolk County Council ("the council"), in relation to an ethical policy for both procurement and investments.
2. The Commissioner's decision is that the request is not a valid request for information because it does not meet the requirements of section 8 of the FOIA.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 19 December 2019, the complainant wrote to the council and requested information in the following terms:

"Norwich CC has had an ethical policy for some years for both procurement and investments. I wonder therefore if:

- 1 *Norfolk CC has a similar policy and if you could send me information about both.*
- 2 *Whether it does or not and especially if it does, would it accept that having large investments in both BAE Systems and Boeing (2 of the world's largest manufacturers and exporters of weapons and polluters also) runs contrary to this.*

As such they help lock the entire world into war and that this is totally immoral?"

5. The council responded on 20 January 2020. It provided an explanation and some information in relation to part 1 of the request. However, it advised that part 2 of the request is seeking an opinion and therefore, does not fall under the FOIA.
6. The complainant requested an internal review into the handling of part 2 of his request. Following an internal review the council wrote to the complainant on 3 February 2020. It upheld its original position that the request is seeking an opinion and therefore, does not fall under the FOIA.

Scope of the case

7. The complainant contacted the Commissioner on 16 February 2020, to complain about the way part 2 of his request for information had been handled.
8. This notice covers whether the Council was correct to decide that the second part of his request was not a valid request for the purposes of the FOIA.

Reasons for decision

Section 8 – request for information

9. Section 8(1) of the FOIA defines a valid request for information under the FOIA as a request which:
 - (a) *is in writing,*
 - (b) *states the name of the applicant and an address for correspondence, and*
 - (c) *describes the information requested.*

10. The request in question, request 2, is clearly in writing and the complainant provided an address for correspondence. The only issue remaining for the Commissioner to consider is its validity in respect of whether it describes the information requested such that the council could identify it.
11. In the Commissioner's view, a request will meet the requirements of section 8(1)(c) if it contains a sufficient description of the information required. Details as to date, author, purpose or type of document, physical location, subject matter or area concerned with, may all help identify the nature of the information sought. Each request has to be judged on its individual merits as to whether there are sufficient indicators provided to enable the information requested to be adequately described for the purposes of section 8. As long as a request attempts to describe the information, it is likely to meet the requirements of section 8(1)(c), as it is always open to the public authority to seek further clarification to identify the information.
12. However in this case, it does not appear that the complainant asked for anything which could be considered to exist in the form of recorded information.
13. The Commissioner does not consider that request 2 adequately sets out a description of any recorded information being requested. She notes that the complainant asked the council if it "*accepts*" that having investments in BAE Systems and Boeing would run contrary to any "*ethical policy*" it may have adopted. In the Commissioner's view, this request is likely to be asking for an opinion, rather than for recorded information, and certainly no description of any information that he requires, such as would have enabled the council to identify it, has been provided.
14. The Commissioner considers that the wording of section 8(1)(c) is clear and should bear its plain meaning. This provision simply requires the request to "*describe the information requested*".
15. The Commissioner is aware that the complainant is concerned that the council may not operate in an ethical manner. However, the Commissioner regulates compliance with the FOIA and therefore, the ethics of the council's operations are not a matter for her to comment on. In this instance, the request appears to seek an opinion or explanation from the council.
16. The Commissioner has determined that request 2 was not a valid request for information within the definition at section 8(1)(c) of the

Reference: FS50910661



FOIA. As it did not fall to be considered by the council within the scope of the FOIA, the Commissioner cannot consider it further.

Right of appeal

17. 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@justice.gov.uk

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

18. 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.
19. 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
Head of FOI Casework and Appeals
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF