

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2021

Public Authority: South Somerset District Council
Address: Council Offices
Brympton Way
Yeovil Somerset,
BA202HT

Decision (including any steps ordered)

1. The complainant requested from South Somerset District Council information on its quality management system in relation to the reviewing of planning application documents submitted by an applicant and also the production of a planning officer's report.
2. South Somerset District Council disclosed the information it held falling within the scope of the complainant's request but took in excess of 20 working days in which to do so. As a result, it breached Section 10 of the FOIA.
3. As the requested information has now been disclosed, the Commissioner does not require South Somerset District Council to take any steps.

Request and response

4. On 25 November 2019 the complainant wrote to South Somerset District Council (the Council) and requested information in the following terms:

'Please could I be provided with a copy of SSDC's [the Council's] quality management system in relation to reviewing of planning application documents submitted by an applicant and also production of planning officers report.

To assist in this request I would expect policies and procedures that set out how:

1. *Due diligence checks on documents that are submitted are carried out*

2. *SSDC created documents used to inform the decision making process are; authored, checked and approved.*

I am happy to received this information in PDF or word format'.

5. The Council responded initially on 6 December 2019 indicating the requested information was not held. It stated that:

'Applications are validated using guidance contained in the national and local validation check list and determined using legislation, national planning policy framework (NPPF), the Local Plan and supporting documents. Documents submitted in support of a planning application such as a transport assessment, ecological report, flood risk assessment will be assessed by the planning officer in conjunction with the consultee responses from statutory consultees such as Somerset Highway Authority, Lead Local Flood Authority, County Ecologist. When the consultation period is over and consultee responses are received an officer report is prepared and the application is determined under the delegation agreement or by committee. In certain circumstances the Ward Member/Area Chair are contacted. Each decision has a sign off sheet which contains a check list and the application is signed off by a senior officer. Please see links below:-

<https://www.gov.uk/guidance/making-an-application>

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

<https://www.southsomerset.gov.uk/your-council/your-council-plan-and-strategies/planning-policy/local-plan/>

6. As the complainant was dissatisfied with the Council's response she submitted a Stage 1 service complaint. In particular, she expressed concern at the absence of documents and in particular, the 'sign off sheet'.
7. The Council responded on 21 January 2020 with the details of the quality checks carried out, including the completion of a sign off sheet, but did not disclose a copy of it.
8. The complainant responded on 21 January 2020 pointing out that the sign off sheet was not available on the Council's website and still had not been sent to her. Also, she said she would like to see a copy of the 'quality management procedures relating to the authoring of Planning Officer's reports and also the checking of planning applications for accuracy'.

9. On 1 February 2020 the complainant submitted a Stage 2 complaint pointing out the lack of evidence regarding planning application checks and the absence of the sign off sheet requested on several previous occasions.
10. The Council responded on 6 February 2020 saying regrettably it had nothing further to add to its previous responses.
11. In addition to her initial request and service complaint, the complainant submitted two further related information requests on 30 January and 24 August 2020, the latter of which is subject to a separate Decision Notice¹.
12. On 16 November 2020 the complainant requested an internal review in relation to her various information requests, including the one subject to this Decision Notice, and the related Decision Notice.
13. On 4 January 2021 in its response to the complainant's request dated 24 August 2020, the Council disclosed several documents. These included the sign off sheet and report template, both of which were within the scope of the complainant's initial request dated 25 November 2019.
14. The Council also issued an internal review response in relation to information requests concerning the planning application process and officer reports on 22 January 2021.

Scope of the case

15. The complainant contacted the Commissioner in January 2021 to complain about the way her request for information had been handled. In particular, she was unhappy with the Council's delayed and inadequate responses.
16. The Commissioner contacted the complainant on 16 August 2021 to clarify exactly what information had been disclosed and what information she believed was still outstanding. The Commissioner also pointed out that, under the FOIA, a public authority was not obliged to create new information to answer a request. She added it was only obliged to confirm the recorded information it held and then to either

¹ IC-133757-T5D6

disclose or redact/withhold it, by citing one or more of the exemptions under the FOIA.

17. Having received clarification from the complainant on 19 August the Commissioner wrote to the Council on 23 August 2021 in relation to the request for details of the information held and disclosed.
18. The Council responded on 16 September 2021 with the information requested by the Commissioner.
19. The Commissioner then contacted the complainant on 23 September 2021 who agreed the scope of her complaint would be limited to the Council's delay in responding to her information request under the FOIA.

Reasons for decision

20. Section 1(1) of the FOIA states that:

"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. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
22. It is clear from the evidence provided to in this case that the Council did not deal with the request for information in accordance with the FOIA. The Commissioner finds that the Council has breached Section 10(1) by failing to respond to the request within 20 working days.
23. As the requested information has now been disclosed no further action is required.

Other matters

Internal reviews – responding to information and internal review requests

24. The Commissioner would like to remind the Council of its obligations under the FOIA in relation to the time it takes to respond to both initial requests and those for an internal review.
25. The FOIA does not require an authority to have a review procedure in place. However, both the Code of Practice made under Section 45 of the FOIA (the "Code") and the Commissioner recommend it is good practice to have one.
26. Paragraph 5.1 of the Code recommends that "It is best practice for each public authority to have a procedure in place for dealing with disputes about its handling of requests for information."
27. Section 17(7) of FOIA requires public authorities to provide the details of the internal review process if they have one. They should also inform the applicant of their right to complain to the Commissioner under Section 50 if they are still dissatisfied following the outcome of the internal review.
28. Paragraphs 5.4 and 5.5 of the Code advise that although there is no statutory time limit for carrying out a review, it is best practice to do so within twenty working days or in exceptional circumstances, forty working days.
29. In this case, when the Council responded to the complainant's initial request it did not mention its internal review procedure. Furthermore, in its internal review response the Council did not include the complainant's right to refer the matter to the Information Commissioner's Office.

Right of appeal

30. 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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

31. 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.
32. 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

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