

Freedom of Information Act 2000 (FOIA)

Date: 5 July 2022

Public Authority: Epping Forest District Council
Address: Civic Offices
323 High Street
Epping
Essex
CM16 4BZ

Decision (including any steps ordered)

1. The complainant has requested from Epping Forest District Council (the council) information with regards to a named employee and an inspection of an area.
2. The council initially considered the information exempt under section 40(2) of the FOIA (third party personal data) before amending its position to provide a response to each part of the request.
3. The Commissioner's decision is that the council has now complied with section 1(1) of the FOIA, but did breach section 10(1) of the FOIA as it provided the response outside the required 20 working days.
4. The Commissioner does not require the council to take any steps.

Request and response

5. On 18 June 2021 the complainant made the following information request to the council:

"As far as I can make out by this council statement "Our employees are working from home and have access to emails and telephones. We are doing everything we can to support our residents and local businesses".

And from information I have received. And also by comments made by council staff, very few, if any, site visits were carried out last year due to the Corona restrictions.

As you are [name redacted] line manager I am hoping you can inform me of her whereabouts a year ago on 18 June 2020.

Can you produce any recorded information regarding whether:

[Name redacted] was working from home or the office?

Was she Furloughed?

On holiday?

Did she visit Abbotts Drive on 18 June 2020?

Did she have her handheld device (tablet/iPad) on her person that day?

It would appear that [name redacted] didn't generate any documents during the week 15-19 June 2020 which seems to indicate that she wasn't working that week. Is this correct?"

6. The council acknowledged receipt of the complainant's request on 21 June 2021, but did not deal with the request under the FOIA at that point.
7. After clarification that he was making an information request, the council referred the request, on 23 June 2021, to the relevant department for a response.
8. The complainant then complained to the Commissioner on 20 July 2021 because he had not received a response to his request.
9. The Commissioner wrote to the council on 23 August 2021 asking that it respond to the request within 10 working days. The council responded to the Commissioner on 31 August 2021 advising that it did respond to the

complainant on 7 July 2021. The 7 July 2021 response stated that due to the volume and tone of the requests, if the complainant continued to submit similar requests then the council would reserve the right to deem such requests as vexatious under section 14(1) of the FOIA. However, it did not go as far as to say that this request was vexatious.

10. The council's email to the Commissioner on 31 August 2021, which the council had copied the complainant into, stated that it considered the requested information is exempt under section 40 of the FOIA as it is the personal data of a council employee, but that a final response would be issued.
11. As no further response was issued, on 13 January 2022 the Commissioner asked that the council confirm to the complainant its position with regards to the request.
12. On 25 January 2022 the council confirmed to the complaint that the request was being refused under section 40(2) of the FOIA.

Scope of the case

13. The complainant contacted the Commissioner further to dispute the council's refusal.
14. During the Commissioner's investigations the council amended its position and no longer sought to rely on section 40(2) of the FOIA to refuse the request.
15. The council provided a response to each part of the complainant's request on 21 June 2022. It also advised that the Estate Inspection Sheet, which was provided to the complainant on 11 February 2021 in response to a previous request, shows that the individual named in the request was working and visited the address in question on 18 June 2020.
16. The complainant has stated that he is still not satisfied with the response as the council has not produced any additional recorded information.
17. The scope of the case is for the Commissioner to determine whether the council has now complied with section 1(1) of the FOIA with regards to the complainant's request.

Reasons for decision

Section 1(1) of the FOIA

18. 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.”

19. In this case the council responded to each part of the complainant’s request as follows:

Can you produce any recorded information regarding whether:

[name redacted] was working from home or the office?

Council response: [name redacted] was undertaking a mixture of home and office work during 2020.

Was she Furloughed?

Council response: No

On holiday?

Council response: No

Did she visit Abbotts Drive on 18 June 2020?

Council response: Yes

Did she have her handheld device (tablet/iPad) on her person that day?

Council response: No

It would appear that [name redacted] didn't generate any documents during the week 15-19 June 2020 which seems to indicate that she wasn't working that week. Is this correct?”

Council response: No the Estate Inspection Sheet (already provided) shows [name redacted] was working on 18 June.

20. The Estate Inspection Sheet that was previously provided to the complainant confirms that the inspection took place by the named officer at the address and date in question.
21. On review of the council's response, the Commissioner is satisfied that the council's 21 June 2022 response has fulfilled its obligations under section 1 of the FOIA.

Section 10(1) of the FOIA – Time for compliance

22. Section 10(1) of the FOIA requires a public authority to respond to an information request in accordance with section 1 of the FOIA within 20 working days following receipt of the request.
23. In this case, the request was made on 18 June 2021 and the council did not provide the information until 21 June 2022.
24. This is clearly outside the required 20 working days, and therefore the Commissioner finds that the council breached section 10(1) of the FOIA.
25. As the council has since provided its final response, the Commissioner does not require it to take any steps.

Right of appeal

26. 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

27. 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.
28. 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

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF