

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 July 2022

Public Authority: Homes England
Address: Arpley House
110 Birchwood Boulevard
Birchwood
Warrington
WA3 7QH

Decision (including any steps ordered)

1. The complainant requested from Homes England ("HE") (the trading name of the Homes and Communities Agency) specific information relating to the transfer of land ownership. HE denied that the information was held.
2. The Commissioner's decision is that HE does not hold the information but has breached section 10(1) by responding to the request outside the time for compliance.
3. The Commissioner does not require HE to take any steps.

Request and response

4. On 12 April 2021, the complainant wrote to HE and requested information in the following terms:

We are interested in the value of land and buildings associated with Houghton Grange, Houghton Road, St.Ives Cambridgeshire which up until a few years ago belonged to The Biotechnology and Biological Sciences Research Council (BBSRC).

The land in question is divided into two parts of roughly equal size 1) the main Houghton Grange site which comprises a number of listed buildings including Houghton Grange itself and has planning permission associated with it, and the other 2) the Houghton Grange field site which is a large agricultural field adjoining the main site to the east which currently does not have permission granted.

Both parcels of land and buildings were either sold, or transferred to the Homes & Community Agency (Homes England) a few years ago for an undisclosed sum. The land registry search (attached) shows this to be the case.

By way of a freedom of information request, we would like to know the following:

- a) Was the freehold of the two parcels of land sold to the Homes & Community Agency, or was it leased or transferred?**
- b) What was the total value realised from the sale, lease, or transfer value?**
- c) If no valuation was attached to the sale, lease or transfer of land, what contractual obligations are the Homes & Community Agency working to in order to dispose of the site/s?**
- d) How is the value realised from sale, lease or transfer broken down between the two parcels of land mentioned earlier (The main Houghton Grange site, and the Houghton Grange Field site)?**
- e) In 2019, the main Houghton Grange site and beneficial rights were leased by Morris Homes again for an undisclosed sum. What was this sum and how long does the lease last for?**

5. HE requested the following clarification on 4 June 2021:

Could you please advise when you refer to "value realised" are you referring to an actual price paid or a market value? Without clarification on this point we are unable to interpret your questions and provide a response.

6. On 10 June 2021, the complainant provided the following clarification:

We do not require the market value of the site. It is the actual price, or if on this occasion there was no actual money exchange between government department and agency, then

the transactional book value at the time when ownership of the land was transferred from government (BBSRC) to Homes England.

7. HE provided a response on 8 July 2021. It disclosed information, denied that some information was held, and withheld some information under section 43(2) (prejudice to commercial interests) of the FOIA.
8. On 24 August 2021, the complainant sought an internal review, on the basis that they disputed HE's response to part b) and part e) of the request.
9. Following an internal review, HE wrote to the complainant on 22 October 2021. It stated that no information was held in respect of part b), and disclosed the information previously withheld in respect of part e).
10. HE wrote further on 26 October 2021 and provided additional detail about its internal review outcome.

Scope of the case

11. The complainant contacted the Commissioner to complain about the way his request for information had been handled, and specifically raised that he believed that HE held the information sought by part b) of the request.
12. The scope of this case and of the following analysis is whether HE holds the information sought by part b) of the request.

Reasons for decision

Section 1 – General right of access to information

13. 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.

14. Section 1(1) requires that any person making a request for information to a public authority must 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.

15. 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, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
16. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

The request

17. The subject of the request is a site (namely 'Houghton Grange, Houghton Road, St. Ives, Cambridgeshire') that had been transferred to HE as part of the Public Land for Housing Programme 2015-2020.
18. Part b) of the request asks for the total value realised from the sale, lease, or transfer value of the site.
19. The complainant subsequently clarified that it was not the 'market value' of the site that was sought, but either the actual price (i.e., the sum of any actual money exchange between the parties) or the transactional book value (i.e., in the event that no actual money was exchanged, the recorded transactional value of the site).

The Commissioner's investigation

20. The Commissioner asked HE to explain its position that the requested information was not held.
21. HE explained that there was no money exchanged between the parties for the site, and therefore would not expect to hold such information.
22. HE also explained that it does not hold a record of the transactional value of the site. HE has explained this thus:

This is because the transaction in our accounts included amounts attributable to other sites that were transferred at or around the same time. The full transaction amount was determined by the aggregate of the market values of the sites transferred.

23. HE has also advised the Commissioner that the market value of the site, whilst not sought by this request, has been disclosed in response to a later request by the complainant.
24. The Commissioner considers that HE has provided a clear explanation of why it does not hold the information sought by part b) and would not reasonably expect to do so. There is no available evidence, either provided by the complainant, or otherwise available to the Commissioner, to suggest that HE's position is incorrect.
25. The conclusion of the Commissioner is, therefore, that on the balance of probabilities HE does not hold the information sought by part b) of the complainant's request.

Section 10(1) – Time for compliance

26. Section 10(1) of the FOIA states that a public authority must comply with section 1(1) within 20 working days following the date of receipt. In this case HE did not seek clarification, and subsequently respond, until significantly outside the time for compliance. It therefore breached section 10(1) of the FOIA.

Right of appeal

27. 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

28. 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.
29. 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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF