

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 April 2022

Public Authority: Royal Borough of Greenwich
Address: The Woolwich Centre,
35 Wellington Street,
London
SE18 6HQ

Decision (including any steps ordered)

1. The complainant has requested information relating to the total time which has been spent by the officers of the Royal Borough of Greenwich (the council) on a particular legal case. The council provided some information however the complainant argued that the figures provided were not the total figure he had requested. The council responded stating that a total figure is not held.
2. The Commissioner's decision is that, on a balance of probabilities, the Royal Borough of Greenwich does not hold the information requested by the complainant.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 4 February 2021 the complainant wrote to the council and requested information in the following terms:

“Under the Freedom of Information Act I request that your client discloses the amount of time and money that has been spent defending this claim. This will need to be broken down to each departments time and the total costing including any barrister fees.”
5. The complainant clarified that the request related to a county court claim, which he specified.
6. The council responded on 3 March 2021. It disclosed information in response to the request. The disclosed information which was disclosed was a breakdown of the legal costs which the council had recorded relating to the case, a figure representing the barristers fees, and the hours and costs spent by the council’s directorate of enterprise, regeneration and skills.
7. After further exchanges of correspondence between the complainant and the council, the council wrote to the complainant with its internal review outcome on 17 March 2022. It said that no further information is held as regards the request of 4 February 2021.

Scope of the case

8. The complainant contacted the Commissioner 20 March 2021 to complain about the way his request for information had been handled.
9. The complainant argues that “the main point to consider is this is tax payers money. It is not acceptable for Royal Borough of Greenwich to simply say they do not know how much they have spent on staffing costs. Any major business should be able to confirm this. It is a simple process of the numbers of hours spent by the individuals times their hourly rate. By not divulging this information they are withholding vital evidence which confirms how tax payers money is being spent.”
10. As noted above at paragraph 7, there was additional correspondence between the complainant and the council between the initial information request and the internal review. In that correspondence, the complainant suggested that he wished to receive the information requested broken down to individuals. However, this notice concerns the request of 4 February 2021, which did not ask for a breakdown by individuals. The council provided the information which it says it holds to him in response to this, however the complainant believes that the

figures provided do not provide all of the time and costs which the council actually spent on the case; he believes that not all of the time which it took has been accounted for.

11. The following analysis covers whether the council identified all the information it held that fell within the scope of the 4 February 2021 request.

Reasons for decision

Section 1 – General right of access to information

12. 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.*
13. 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.
 14. 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 ICO, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
 15. In other words, in order to determine such complaints, the ICO 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 complainant's position

16. The complainant argues that the Council has not provided him with information on all of the time which it took over the case.

The council's position

17. The council argues that it does not hold total figures for officers' time spent on defending the claim, and it provided the complainant with the information it does hold.
18. It clarified that for the legal proceedings, the lawyers' time is recorded on a case management system, which is where the totals it provided to the complainant in response to his request came from in its initial response. It said that the relevant legal officer provided his hourly rate calculated from his salary, and the time he spent, and the barrister provided fee notes.
19. It said that other officers' time on claims is not held; only legal officers as per the council's case management system. One other department's figures were also able to be provided.
20. It clarified that a particular legal firm was not directly involved in the proceedings, and expressed concerns that the complainant was mixing the relevant request up with a different request.
21. It said that the relevant councillor had been emailed for a copy of the summons, and had responded providing this, again by email.
22. It said that it carried out searches by emailing the relevant officers. It therefore considered that all relevant searches were carried out in order to obtain the information necessary in order to respond fully to the request, but essentially the information requested is not held for some aspects of the work which was carried out, and so it provided the figures which it could to the complainant in response to his initial request for information.

The Commissioner's conclusion

23. The Commissioner has considered the council's position, in conjunction with the request.
24. The Commissioner initially had concerns that the council's response to his questions regarding the searches which it had carried out were inadequate and did not provide the Commissioner with reassurance that the searches were adequate and appropriate in order to locate any information held which would respond to the request.
25. He therefore sought further clarification from the council as to whether officers' time on individual cases is recorded per case. The council confirmed, however, that officers who do not work in the legal department do not record their time spent on each case individually.

26. The complainant's request was for "the amount of time and money that has been spent defending this claim. This will need to be broken down to each department's time and the total costing including any barrister fees". The council's initial response provided the legal costs and the time which it had recorded.
27. However, the complainant then subsequently suggested that the council's response provides only partial figures and that it does not demonstrate the total amount of money and time that RBG has spent defending the claim. The Commissioner accepts that the figures which were disclosed do not include all council officer costs and the time which they spent working on the case. This is because, as the council clarified, only legal officers record the time which they spend on individual cases.
28. Council officer's time, and that of councillors themselves, is not recorded on each individual item of work, separated by each case, or each letter they write. Apart from specific types of work, officers will simply be paid a salary for the work they carry out, regardless of the time which they spend on individual topics or cases, and they will not record the time which they work on those cases.
29. The council has therefore disclosed the information which it does hold, which is the information which was recorded relating to its legal officers' work and the other information which it did hold. This is recorded as time worked on individual cases on its case management system.
30. As records for some officer's time is not recorded, the Commissioner is satisfied that no additional information falling within the scope of the request is held by the council.
31. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
32. On this basis the Commissioner has concluded that, on the balance of probabilities, no further information falling within the scope of the request is held.

Right of appeal

33. 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

34. 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.
35. 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

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