

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 March 2023

Public Authority: Shropshire Council
Address: Shirehall
Abbey Foregate
Shrewsbury
SY2 6ND

Decision (including any steps ordered)

1. The complainant requested information from Shropshire Council ("the Council") relating to the sale of a farm by the Council in 2004. The Council advised the requestor that it does not hold information within scope of the request.
2. The Commissioner's decision is that, on the balance of probabilities, the Council was correct to confirm that it does not hold the requested information. However, the Council did breach section 10 by not responding to the requests within 20 working days.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 1 October 2021, the complainant wrote to the Council and requested information in the following terms:

"Shropshire County Council sold Villa Farm, Cantlop, SY5 7DG to CMS JAW Ltd by virtue of a transfer dated 31st March 2004.

Could I please have a copy of the valuation evidence produced by the council for the sale and ask whether or not there was any tenant discount applied, and if so, was the purchaser considered a tenant?"
5. The Council advised no information was held in its initial response dated 22 November 2021.

6. In its internal review of 8 December 2021, the Council upheld the position that no information was held in relation to questions 1 and 2. However, in response to question 3, it confirmed that the purchaser was not the tenant.

Reasons for decision

7. This reasoning covers whether the Council is correct when it says that it does not hold information within the scope of the request.
8. In their complaint to the Commissioner, the complainant stated that they consider the Council to hold information within the scope of their request.
9. The complainant explained that they are aware of more than one instance where the Council held information relating to the valuation evidence for small holding sales in 1995 and 2001. The complainant therefore considers the Council to hold information relating to a sale in 2004. The complainant provided the Commissioner with a copy of this evidence.
10. The Commissioner invited the Council to respond to the complainant's point, demonstrate the searches it has carried out, confirm its retention policy for holding such information and to explain why the information is not held.
11. The Council confirmed that thorough searches had been carried out on the relevant systems including the Service Area's File Index for sourcing correct records, file lists from Archives and files from office storage. The Council also confirmed that their retention policy for information relating to the allocation and management of smallholdings and case files for property valuations is 6 years.
12. Therefore, on the balance of probabilities, the Commissioner is satisfied that the requested information is not held by the Council.
13. The Commissioner does acknowledge that there is inconsistency in held information as the complainant explains that information from 1995 and 2001 is held by the Council. This does not change the view that the Commissioner believes the requested information is not held however, as the Council has demonstrated that they have carried out extensive searches and explained their retention policy.

Procedural matters

14. The Council breached section 10 of FOIA as it failed to inform the complainant, within 20 working days, that it did not hold the requested information.

Right of appeal

15. 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

16. 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.
17. 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

Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF