

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 January 2023

Public Authority: Thurrock Council

Address: Civic Offices
New Road
Grays
RM17 6SL

Decision (including any steps ordered)

1. The complainant submitted a request to Thurrock Council ("the Council") for information relating to policies regarding representation and consent to act on behalf of a data subject.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any information within the scope of the request and has therefore complied with section 1 of FOIA.
3. The Commissioner does not require the Council to take any further steps.

Request and response

4. On 17 and 20 June 2022, the complainant made the following requests for information under the FOIA:
 - "1.Policies, documents or any other materials that cover representation and consent to act on behalf of the data subject.
 2. Please provide the relevant Council policies that state that consents have an expiry date set to 1 calendar year".

5. On 15 July 2022, the Council responded stating that it did not hold the information requested.
6. Upon receiving this response, the complainant requested an internal review on 20 July 2022, and on 17 August 2022, the Council provided its internal review response, in which it upheld its position and provided the complainant with an extract from an internal procedure called 'Subject Access Request (SAR) Procedures'.

Scope of the case

7. The complainant contacted the Commissioner on 22 August 2022 to complain about the way their request for information had been handled.
8. In line with his usual practice, the Commissioner contacted the Council for an explanation of its application of section 1 and to ask if the complainant could be provided with a copy of the SAR procedure, from which the extract was taken.
9. The Council provided this procedure and after receiving it, the complainant requested that the Commissioner issue a decision notice, to determine why the Council did not provide the document initially.
10. The scope of this case is to consider whether, on the balance of probabilities, the Council holds any information within the scope of the complainant's request.

Reasons for decision

Section 1 (Held/Not Held)

11. Section 1(1) of 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.
12. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.

13. In its initial response, the Council advised the complainant that it does not have a written policy or procedure that covers the expiration of consent.
14. In submissions to the Commissioner the Council explained that it has a well-established information governance team who are "aware of the central location of the data in relation to the subject matter".
15. The Council further explained that it searched through its document management system and used the search term 'representation and consent to act on behalf of the data subject' and that the only results returned were the complainant's original request.
16. The Commissioner notes that the SAR procedure, that the Council provided, mentions the word consent but does not cover exactly what was requested.
17. It is the Commissioner's view that the Council has taken an exact reading of the request and is satisfied that the Council has responded appropriately.
18. On the balance of probabilities, the Commissioner is satisfied that the Council does not hold any information falling within scope of the complainant's request.

Other Matters

19. When providing the SAR procedure document to the complainant, the Council redacted the names of junior employees. The Commissioner considers this document to be outside the scope of the request. However, would such a document be subject to a formal FOIA request, then the Council could legitimately rely on section 40(2) to redact such information for the same reasoning as caught by decision notice IC-65268-D1S9¹.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/2620263/ic-65268-d1s9.pdf>

Right of appeal

20. 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

21. 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.
22. 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

Phillip Angell
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SK9 5AF