

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 December 2023

Public Authority: Rother District Council
Address: Town Hall
Bexhill-on-Sea
East Sussex
TN39 3LX

Decision (including any steps ordered)

1. The complainant requested information about proposed dog control restrictions on the beach at Camber. In its initial response Rother District Council (the Council) provided a link to information on its website and stated it did not hold any further information. During the course of the Commissioner's investigation the Council located additional information falling within the scope of the request, which it disclosed to the complainant.
2. The Commissioner's decision is that the Council does not hold any further information relevant to the request. However, the Commissioner finds that the Council breached section 10 of the FOIA in failing to provide some disclosable information within the statutory timescale. The Commissioner does not require any steps to be taken.

Request and response

3. On 6 July 2023, the complainant wrote to the Council and requested information in the following terms:

"Information as to why the Council is thinking of changing the current arrangements relating to dogs on the beach at Camber and why it considers that it is necessary to increase the current restrictions".

4. The Council responded on 7 July 2023 and provided links to information on its website relating to the request.
5. On 7 July 2023 the complainant submitted a follow-up request for information in the following terms:

“All the evidence underlying the assertion by the Council that increased restrictions for dogs on the beach at Camber are justified/necessary. The only information provided to date is the assertion that ‘The extension of the dog exclusion zone at Camber is (required) to reduce any conflict between dogs and kite surfers’. Please provide all evidence to support this claim”.
6. The Council responded on 17 July 2023 and stated that it did not hold any additional information other than that which it had already provided.
7. On 18 July 2023 the complainant requested an internal review of the Council’s handling of the request. They disputed the Council’s position that no documentary evidence was held relating to the proposal to increase dog controls at Camber.
8. The Council provided the outcome of its internal review on 9 August 2023 and upheld its position that no further information was held relating to request.

Scope of the case

9. The complainant contacted the Commissioner on 20 August 2023 to complain about the way their request for information had been handled.
10. During the Commissioner’s investigation, the Council located additional information relevant to the request, which it disclosed to the complainant.
11. The scope of the Commissioner’s investigation into this complaint is to determine whether the Council holds any further recorded information falling within the scope of the request of 6 July 2023.

Reasons for decision

Section 1 – general right of access

12. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to him.

13. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.
14. As mentioned earlier in this notice, during the course of the Commissioner's investigation, the Council located additional information relevant to the request, namely internal email exchanges, incident reports relating to safety matters at Camber beach and a risk assessment for Camber beach. This information was disclosed to the complainant. In addition, the Council provided a link to the minutes of its Cabinet meeting on 8 October 2023 where it was resolved to retain the current dog controls at Camber beach.
15. The Council confirmed to the Commissioner that the information relevant to the request would be held in electronic format only and would have been sent on networked laptops and mobile phones. The Council has undertaken searches within its Environmental Health Department and Neighbourhood Services Department. Other than the information which has now been disclosed the Council's position is that no additional recorded information is held.
16. In terms of the decision making process to consult on changes to dog controls at Camber beach the Council advised the Commissioner that its Cabinet gave authority to consult on proposed changes at its meeting on 6 February 2023¹. Internal meetings were held to decide what to consult on, but these were informal discussions and no notes or minutes of the meetings are held. The Council stated that advice was given by the Coastal Control Officer, Head of Service – Neighbourhood Services and other staff within Neighbourhood Services. This advice was given verbally. The Council also advised that this was part of a wider consultation about dog controls throughout the district and not just on Camber beach.
17. Based on the evidence available to him, the Commissioner is satisfied that the Council has carried out adequate searches, which would have been likely to locate information falling within the scope of the request. Based on the searches undertaken and the other explanations provided,

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<https://rother.moderngov.co.uk/documents/s6924/Public%20Spaces%20Protection%20Order%20No%201A%20-%20Dog%20Control.pdf>

as referred to above, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold any additional information falling within the scope of the request other than that which it has disclosed.

Section 10 – time for compliance

18. Section 10 of the FOIA requires a public authority to confirm whether it holds any information within the scope of a request and to provide any information not otherwise exempt, within 20 working days.
19. In this case the complainant submitted their request for information on 6 July 2023. During the Commissioner's investigation, the Council located additional information falling within the scope of the request, which was disclosed to the complainant.
20. In failing to provide the disclosable information within the statutory time for compliance, the Commissioner finds that the Council breached section 10(1) of the FOIA.

Right of appeal

21. 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

22. 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.
23. 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

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