

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 May 2012

Public Authority: Surrey County Council
Address: County Hall
Penrhyn Road
Kingston upon Thames
Surrey
KT1 2DN

Decision (including any steps ordered)

1. The complainant requested the minutes of a meeting from Surrey County Council ("the council"). The council provided the information that it held however the complainant was not satisfied.
2. The Commissioner's decision is that the council provided the information that it held on the balance of probabilities.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 22 August 2011, the complainant requested information from the council in the following terms:

"On August 9th at 3pm a meeting was held at County Hall, Kingston. The meeting was attended by Cllr David Hodge, Cllr Denise Saliagopoulos, Cllr Geoff Marlow, Mr Peter Milton, Mr Mike Alsop, Mr John Bond and a Minutes Secretary.

I would be grateful for the name of the Minutes Secretary and the minutes she took at that meeting".

5. The council responded on 25 August 2011. It confirmed the name of the minute taker and it said that it had attached a copy of the information requested.

6. The complainant replied on the same day and said that he considered that the council had provided a "summary" and he wanted to see the full minutes. He pointed in particular to the fact that he had specifically asked for his protest at the change in the attendees at the meeting to be recorded in the minutes and he was told that this would happen, however, the information provided did not show this information. He also said that he would expect the full minutes to include the name of the minute taker and to show the full notes regarding each question rather than showing the questions out of context.
7. The council responded on the same day and said it would double-check but it understood that the information provided represented the only minutes of the meeting. It said that it considered that the minutes had recorded the complainant's protest and it quoted the relevant paragraph.
8. The complainant wrote to the council again on 16 September 2011 referring to correspondence he had received which said the following:

"[name] has asked me to confirm that the notes record the salient points from the meeting on 9 August, and [name]'s responses to your various questions".

The complainant said that this clearly demonstrated that the information he received did not represent the full minutes of the meeting.
9. On 20 September 2011, the council responded and said that it had spoken to the minute taker and it had been assured that no other notes of the meeting exist.
10. The complainant refused to accept the council's position, and he alleged that the council had wilfully destroyed information. The council therefore completed an internal review on 26 September 2011. It said that the complainant had been provided with the information that it held and there was no reason to believe that any information had been wilfully destroyed.

Scope of the case

11. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider whether the council held more information than it had provided to him.

Reasons for decision

Section 1(1)

12. Section 1 of the FOIA states that any person making a request for information to a public authority 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 argument. He will also consider the actions taken by the authority to check that the information was not held and he will consider if the authority is able to explain why the information was not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held. He is only required to make a judgement on whether the information was held "on the balance of probabilities".¹
14. During the Commissioner's investigation, the council maintained that it had not held, at the time of the request, any further recorded information. The council did accept that it had once held more information however. It said that the minute taker took notes on the meeting by hand and then transcribed them. This information was then destroyed before the complainant's request in accordance with the Council's Retention Schedule for Democratic Services. It said that no record was kept, and it would not be common practice to do so in relation to this type of information. It said that these notes did not in any event contain any "additional information" that was not contained in the final record that had been provided to the complainant already. The council said that because it knew that the only other notes had been destroyed, it had not considered that it was necessary in this case to conduct any searches other than consulting the staff member who took the minutes in this case.
15. The council explained to the Commissioner that the meeting in question concerned proposals to use volunteers rather than paid staff in ten libraries. It said that the complainant had been unhappy with these proposals and the meeting had been set up to answer his questions, and those of another individual. The council said that it was

¹ This approach is supported by the Information Tribunal's findings in *Linda Bromley and Others / Environment Agency* (31 August 2007) EA/2006/0072

not a formal council meeting and there was no legal requirement to produce formal minutes. The council said that the complainant appears to have been expecting a verbatim transcript of the meeting. The council commented that this is not the general purpose of minutes, which is to record only the salient points as a matter of record rather than everything which was said.

16. Having considered the explanation provided by the council, the Commissioner was satisfied that on the balance of probabilities, no further information was held at the time of the request. The complainant's dissatisfaction appears to be rooted mainly in the belief that other notes were taken. The council has confirmed that there were original notes (although it disputes that these recorded additional information) however it maintains that these were destroyed before the complainant's request was made. There is no evidence to suggest that this was not the case. The Commissioner also agrees with the council that the general purpose of minutes is to record only the salient points rather than everything that was said.

Right of appeal

17. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

18. 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.
19. 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

Andrew White
Group Manager
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