

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 May 2012

Public Authority: Salford City Council
Address: Corporate Services
Civic Centre
Chorley Road
Swinton
M27 5DL

Decision (including any steps ordered)

The complainant requested information on the council's costs for outsourcing to either Barristers Chambers or Solicitors at Employment Tribunals for all Council Staff (including Teaching Staff) between 1st August 2000 and the 31 October 2010. The council did not respond to that request.

The Commissioner's decision is that the council breached the requirements of section 1(1)(a) in that it has not responded to the complainant stating whether or not it holds the information. It has also breached section 1(1)(b) in that it has not communicated the requested information to her or applied a valid exemption to the information in response to the request.

The Commissioner has also decided that the council breached the requirements of section 10(1) of the Act in that it did not respond to the complainant complying with the requirements of section 1 within 20 working days.

The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.

- To respond to the complainant's request as required by section 1 of the Act.

The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the

Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

1. On 14 January 2011 the complainant wrote to Salford City Council and requested information in the following terms:

"I would like to know how much the Council has spent outsourcing to either Barristers Chambers or Solicitors at Employment Tribunals for all Council Staff (including Teaching Staff). Any combination of those below, between 1st August 2000 and the 31 October 2010:

- 1) *For constructive dismissal*
- 2) *Unfair dismissal*
- 3) *One (or more) of the various discrimination claims and/or under the Protection from Harassment Act*
- 4) *Public Interest Disclosure Act 1998*
- 5) *Any other Employment issues, I may have omitted.*

Please name the Solicitors/Barristers that the Council have outsourced to: For example, 2010 Number (which is the cost spent)

Name (Name of Solicitor/Barrister). Please provide the figures in the following format e.g. 2006 – NUMBER HERE AND SOLICITOR OR

BARRISTERS NAME HERE; 2007 – NUMBER HERE AND SOLICITOR OR

BARRISTERS NAME HERE; 2008 – NUMBER HERE AND SOLICITORS OR

BARRISTERS NAME HERE ; 2010 – NUMBER HERE AND SOLICITORS OR

BARRISTERS NAME HERE; etc, thus making it easier for one to read and to ensure there is no misunderstandings.

I would request that you include VAT in the figures. Not a before and after VAT, a figure which included total cost including VAT.

Please also send this information as "calendar years" not financial

years.

Please note that I do not seek or require any personal information such as names and addresses – only the total figures and name of the law firms whom the Council outsourced too.

I would ask that you remember the statutory duty imposed upon public authorities by virtue of Section 16 of the Freedom of Information Act to provide advice and assistance to requesters. If for any reason you are leaning toward rejecting any part of this request or if you plan to argue that it is unmanageable or unanswerable in any way then I would expect you to contact me promptly to find ways to answer this request to our mutual Satisfaction."

2. The council responded on 17 January 2011 acknowledging receipt of the request.
3. On 11 February 2011 the council wrote to the complainant. It stated that it was not yet in a position to respond to her request as the information was not held in a central position. It stated however that it hoped to be in a position to respond shortly.
4. On 21 March 2011 the complainant wrote to the council. She asked it to respond to her request and to explain why it had not responded within the time limits required by the Act. On the same date she wrote to the council asking it to review its position.
5. On 8 April 2011 the council responded. It apologised for the delay but said that it was still in the process of addressing her request and would respond as soon as possible.
6. On 14 April the complainant acknowledged receipt of the council's letter of 8 April 2011.
7. There was then no further correspondence on this issue for numerous months. On 21 January 2012 the complainant wrote back to the council asking it to explain why it had failed to respond to her request.
8. On 6 February 2012 the complainant wrote again asking the council why it had ignored her correspondence.
9. The council did not respond to those letters.

Scope of the case

10. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
11. The Commissioner considers that the complaint is that the council has not responded to her request.

Reasons for decision

12. Section 1(1) of the Act provides 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. This obligation is subject to the application of exemptions under the Act. If however an exemption is applicable, in general the authority must respond to the applicant stating which exemption is applicable to the information, and explaining the reasons for that decision. This is required under section 17 of the Act.
14. Section 10 (1) of the Act states that

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."
15. In general therefore an authority must respond to a request for information by disclosing the information to the complainant within 20 working days, or within that time it must issue a refusal notice to the applicant which meets the requirements of section 17 as described above. It must also confirm whether any relevant information is held.
16. In this case the complainant requested the information from the council in a letter dated 14 January 2011. The council has not yet responded to that letter in a form which meets the requirements of section 1(1).

17. The Commissioner's decision is therefore that the council has breached section 10(1) of the Act in that it has not responded to the complainant within the specified twenty working day period.
18. The Commissioner has also decided that the council breached section 1(1)(a). In its response to the complainant of 11 February 2011 it stated to the complainant *"We are in the process of gathering the information we hold and hope to be in a position to respond to your request shortly."* Whilst this response does clarify that some of the requested information may be held it does not specify what information is held and what is not.
19. The Commissioner's has also decided that the council breached section 1(1)(b). The council has not issued a refusal notice to the complainant stating that the information is exempt from disclosure under section 1 of the Act. It was therefore required to disclose the information in the absence of a valid exemption being applicable.

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: 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

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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF