

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 25 March 2013

**Public Authority:** Charity Commission  
**Address:** PO Box 1227  
Liverpool  
L69 3UG

#### Decision (including any steps ordered)

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1. The complainant requested copies of correspondence and records of meetings and telephone calls between the Charity Commission and Bath Recreation Ground Trustees and their advisors between specific dates.
2. The Commissioner's decision is that the Charity Commission does not, on the balance of probabilities, hold any further information falling within the scope of the complainant's request beyond that already disclosed. He therefore does not require the Charity Commission to take any steps to comply with the legislation.

#### Request and response

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3. On 23 April 2012, the complainant wrote to the Charity Commission and requested information in the following terms:

*"...I would like to request records of all correspondence, and all contact notes from meetings or phone calls between any representative of the Charity Commission and Bath Recreation Ground Trustees and their B&NES Advisors (including lawyers) between September 1st 2011 and December 23rd 2011."*

4. The Charity Commission responded on 14 May 2012 and provided a list of documents that were held. Following further correspondence, on 24 June 2012, it provided some information but withheld other information under sections 22 and 31.
5. Following an internal review the Charity Commission wrote to the complainant on 12 July 2012 and upheld its previous decision.

6. On 21 December 2012, the Charity Commission disclosed further information to the complainant. It explained that it was doing this because the information was no longer sensitive.
7. On, 4 March 2013, following queries raised by the complainant, the Charity Commission disclosed further information that it had located that fell within the scope of the request.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 20 September 2012 to complain about the way her request for information had been handled. Following the disclosures made by the Charity Commission, she remained dissatisfied that it had identified all of the information that it held that fell within the scope of her request of 23 April 2012.
9. The Commissioner considered whether the Charity Commission held any further information, beyond that which it had already identified, that fell within the scope of the complainant's request.

### **Reasons for decision**

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10. In situations where there is a dispute between a public authority and a complainant about whether further information is held by the public authority, the Commissioner, following the lead of a number of Tribunal decisions, applies the civil standard of proof. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any further information which falls within the scope of the request.
11. The Charity Commission informed the Commissioner that it understood the complainant's concerns as to whether it held further information in relation to her request as on a number of occasions, in relation to this request and in relation to other requests that she had made, the Commission had informed her that it had provided her with details of all of the information within the scope of her request, only to subsequently locate more information. However it was now satisfied that, on the balance of probabilities, it did not hold any further information falling within the scope of her request.
12. The Charity Commission provided the Commissioner with details of its information management systems and a detailed explanation of the searches that it had undertaken in an attempt to locate any further

information that it held that fell within the scope of the complainant's request.

13. In terms of its information management systems, the Charity Commission explained that it holds information in both hard copy and electronically. With regards to electronic storage, it uses both a case management programme called CRM and a document storage system called CeRIS. It confirmed that every charity which has engaged with the Commission since CRM was installed in 2009 has an organisation entry in CRM. The organisation entry in CRM is linked to an organisation entry in CeRIS. General information and documentation in relation to the organisation is stored both in CeRIS and in CRM. The Recreation Ground, Bath has an organisation entry in both CeRIS and CRM.
14. The Charity Commission went on to explain that, when substantial engagement takes place between the Commission and an organisation, such as in the case in relation to which the request was made, a separate case file is opened in CRM to record correspondence and documentation in relation to that specific matter. This case file is also linked to a case file in CeRIS with the same case number. Again, information and documentation in relation to a case may be stored in CRM and CeRIS. The Recreation Ground, Bath has a number of case files recorded. Case files show the date on which they were opened and the day they were closed.
15. The Commissioner was informed by the Charity Commission that when it opened the Recreation Ground, Bath organisation entry in CRM and clicked on its history, every piece of correspondence stored against the organisation itself and on every separate case stored in CRM appeared. It confirmed that in relation to the Recreation Ground, Bath there are thousands of entries. This would not however be a complete list of all of the relevant information because, as it stated, some information is held in CeRIS rather than CRM. As CeRIS and CRM interlink, any documents stored in the main case files in CeRIS would be reflected in CRM. However any documents stored in sub files in cases on CeRIS would not be picked up by CRM.
16. In relation to CRM, the Charity Commission explained that it lists information in the order on which it was entered into the system. CeRIS however does not store documents in chronological order and is therefore harder to search. It confirmed that the Commission does however operate a naming convention which states that documents

should be titled starting with the date in reverse order (YYYY/MM/DD) and this makes identifying relevant documents a little easier.

17. The Commissioner was informed by the Charity Commission that different teams within the Commission use CeRIS and CRM in different ways. The Investigations and Enforcement ("IAE") team generally do not use CRM to store documents in relation to their cases. Almost all of the information in relation to cases run by them is stored in CeRIS or in hard copy files. The Operations Teams however generally store all of their case related information in CRM and very little in CeRIS.
18. The Charity Commission explained that the matter to which the request related was dealt with by both IAE and Operations. Coupled with the large amount of information it held about the charity, this meant that documentation and information on this matter has been stored in both hard copy, and on two electronic systems. As a consequence, searching for information was extremely difficult.
19. The Charity Commission confirmed that it no longer keeps hard copy case files. As such the historic hard copy files are not updated and all recent information (from September 2011 onwards) should now be stored electronically. It explained, however, that unfortunately case officers are still on occasion handed information in hard copy form. Though this should be scanned in and stored electronically this is not always done.
20. As a consequence of the above, the Charity Commission informed the Commissioner that it is possible that it once held or holds information which would not be uncovered by the searches which it had carried out and which are detailed below. The only way for the Commission to ensure that this is not the case would be for it to check every single paper document that it holds. In its view, it would not be reasonable for it to have to do this.
21. The Charity Commission confirmed that it holds a number of historic hard copy files in relation to the matter to which the request relates and that these have all been searched for relevant information.
22. In relation to the specific searches that had been undertaken, the officer at the Charity Commission responsible for the searches informed the Commissioner that she had personally searched the electronic records held against the Recreation Ground Bath organisation in both CRM and CeRIS. She had done this by:

- Firstly searching through the Recreation Ground, Bath's entire organisation history in CRM for entries between the 1 September 2011 and 23 December 2011.
  - Secondly, by looking at the case records in CRM to find any cases which were opened at the relevant date and noting the case numbers. She then checked each of the case records in CeRIS, opening all of the documents in each folder and sub folder of the records to see whether any of the information stored was relevant to the request. She explained that the naming convention used by the Charity Commission should identify the date of the document but this relies on the user inserting the correct date into the system. As she wanted to be sure no further information was held, she decided that, rather than rely on the naming convention, she would individually check every document stored.
  - Thirdly, she ran a search in CeRIS for 'Recreation and Ground and Bath' to see if any documents had been saved in CeRIS in other locations other than against the organisation. Where a document was not stored against the organisation she opened this to check if it fell within the scope of the request.
23. The officer at the Charity Commission informed the Commissioner that two of her colleagues in its Taunton office had also checked the electronic files in a similar way to her (excluding the third step).
24. She went on to explain that the hard copy files in relation to this matter are held at the Commission's Taunton office. There are over ten lever arch files of documents. These files are not in chronological order and therefore the only way to comprehensively search them is to page turn each folder checking each and every page of the file. This had been done by one of the officer's colleagues.
25. The Commissioner was informed by the Charity Commission that, as electronic information in relation to organisations and cases should not be stored in employee's personal drives but in CeRIS and/or CRM, it had not undertaken searches of employees' personal drives (which are limited in storage capacity to avoid information being stored). It had searched the outlook email folders of the main Commission staff who are currently employed and have been dealing with the case and have found no additional information falling within the scope of the request.

26. The Charity Commission confirmed that it is possible that recorded information which would fall within the scope of the request was once held but has been deleted/destroyed. The officer dealing with matter informed the Commission that, as far as she was aware, there had been no deliberate deletion or destruction. However, given the volume of documents in relation to the Recreation Ground, Bath, she accepted that it was possible that some information may inadvertently have been lost/destroyed.
27. The Charity Commission explained that it is difficult for information stored electronically to be deleted as most Commission staff would not have the access to be able to do this. It informed the Commissioner that in practice nothing is routinely deleted from its electronic records so that once information is stored electronically it would in theory remain there indefinitely. As the matter to which the request relates is on-going the Commission's data retention policy, which sets out when information might be destroyed after cases have been closed, would not have been applied to this information.
28. The Charity Commission stated that it is possible that documents which were stored electronically may have been either copied and stored in other electronic locations or printed and stored in hard copy. However, having undertaken the searches described above, it had not located any such copies.
29. Based on the searches carried out by the Charity Commission and the explanations that it has provided, the Commissioner is satisfied that, on the balance of probabilities, it does not hold any further information, beyond that which has already been disclosed, which falls within the scope of the complainant's request. He has therefore decided that the Charity Commission does not need to take any further steps to comply with FOIA.

## Right of appeal

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30. 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](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

31. 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.
32. 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 .....**

**Rachael Cragg**  
**Group Manager**  
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