

Freedom of Information Act 2000

Decision notice

Date: 18 March 2015

Public Authority: Stoke-on-Trent City Council
Address: Civic Centre
Glebe Street
Stoke-on-Trent
ST4 1RN

Decision (including any steps ordered)

1. The complainant requested information relating to Stoke-on-Trent City Council's (the Council) Framework Agreement for the provision of domiciliary care and carer support for younger adults and older people. The Council provided what it considered to be the extent of the information held. Some information was redacted under section 40(2) of the Freedom of Information Act 2000 (the Act) as it was third party personal data.
2. The Commissioner's decision is that on the balance of probabilities the Council has not provided all of the relevant information it holds for item b) of the complainant's request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a new response to item b) of the complainant's request which complies with section 1(1) of the Act, or issue a valid refusal notice.
4. 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

5. The complainant wrote to the Council (on an unknown date) and requested information in the following terms:

"This is a request under the Freedom of Information Act 2000 for information about the Framework Agreement for the provision of Domiciliary Care and Carer Support for Younger Adults and Older People 2012. Please provide the following information:

- a) the last two monthly monitoring returns submitted by each service provider in accordance with Schedule 3 (M1.1) of the Agreement;*
- b) the dates and amounts of any adjustments the Council has made to payments to service providers in the last two months due to variations between the planned care and the care that was delivered;*
- c) the dates of any revisions to the Framework Agreement; and*
- d) the date of any contracts awarded under the Framework Agreement and the names of service providers to whom they were awarded."*

6. The Council responded on 2 April 2014. It responded to the requests as follows:

- a) provided held information, with redactions made under section 40(2) for third party personal data.
- b) provided held information.
- c) confirmed that there had been no revisions to the Framework Agreement.
- d) confirmed the dates that the contracts were awarded and the name of the service providers.

7. The complainant requested an internal review on 14 May 2014. The Council completed its review on 25 July 2014. It stated that its initial response was a "full and accurate" response and there was no further information to disclose.

Scope of the case

8. For the purposes of his investigation, the Commissioner accepted the complainant's appeal on 23 September 2014 about the way her request for information had been handled.
9. The Commissioner has discussed the Council's handling of the request with the complainant and reached an agreement to limit the scope of the request to whether any further information is held by the Council for items a) and b) of the request. The Commissioner will not consider whether information was correctly withheld under section 40(2) of the Act as the basis of the complaint against the Council is that further information is held, not that the personal data of third parties has been incorrectly withheld.

Reasons for decision

10. Section 1 of the Act states that if an individual submits a request for recorded information to a public authority, the authority has to confirm or deny whether it holds the information. Should it hold the information it has an obligation to provide the information. Both rights are subject to various exemptions under the Act.
11. In cases where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – in accordance with a number of First-Tier Tribunal decisions – applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely or unlikely that the Council holds information relevant to the complainant's request.

Item a) of the request – monthly monitoring returns

12. The information provided to the complainant showed the performance indicators for each of the 13 service providers for the period of 23 December 2013 to 16 February 2014 (two four-weekly monitoring periods). This detailed information such as the amount of care provided, the number of new referrals for care, staffing levels, complaints and safeguarding issues, as well as compliments and positive outcomes. When the Council provided copies of the unredacted information to the Commissioner this information was contained in spreadsheets.
13. In each provider's spreadsheet there was a tab which contained a summary of the information that was displayed in the other tabs. So for each provider the Council disclosed two sets of four-weekly returns regarding details about the complaints it had received, the positive

outcomes it had achieved etc. and then a summary tab at the front of the spreadsheet to encapsulate the information into a more succinct form. Whilst reviewing these spreadsheets it was evident to the Commissioner that some of the sections within the summary tab did not accurately reflect the more extensive detail contained in the other tabs, and in some instances the information in the summary tab was missing altogether. These discrepancies within the data raised reasonable doubts about whether further relevant information was held.

14. In response to the Commissioner's enquiries the Council explained that the returns had been provided as they were sent by the service providers and that it had disclosed the information as it was received. Once the information had been received the Council was able to amend the discrepancies in the summary so that it matched the information provided in the other tabs. However, the Council argued that the complainant had specifically requested the monitoring returns and this was the extent of the complainant's request.
15. The Commissioner is satisfied with this explanation and considers that the information is an accurate reflection of the monthly returns from the service providers. On the balance of probabilities he considers it unlikely that any further information is held.

Item b) of the request – adjustments in payments to service providers

16. The information provided to the complainant showed the total adjustments made in 1 April 2013 and 28 February 2014 by the Council and then later the total adjustments made for the last two four-week periods prior to the request. Whilst relevant to the complainant's request, this does not entirely match the description of the information requested. The complainant specifically asked for the dates and amounts of the adjustments to the payments. The Commissioner's view is this would comprise of a list of all the adjustments with the date they were made, the amount, and the name of the relevant provider.
17. The Commissioner notes that item b) of the request does not explicitly mention that the complainant wants the names of the providers alongside the adjustments, but the Commissioner considers it reasonable to include them. The service providers are named in the request and so clearly of interest. Further, the Council put the names of the providers alongside the four-weekly returns for item a) of the request despite the complainant not explicitly stating this was necessary, so it follows that this would be the appropriate approach to adopt for item b) of the request.
18. The Commissioner considers it likely that this information would be held. The Council is capable of working out the total in distinct periods which means it would know the dates and amounts of the payments. It is also

highly likely that the Council would keep record of to whom the payment was made.

19. Therefore, on the balance of probabilities, the Commissioner considers that the Council does hold further requested information relevant to the complainant's request. Consequently the Commissioner requires the Council to issue a new response to item b) of the complainant's request which complies with section 1(1) of the Act, or issue a valid refusal notice.

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 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: <http://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

Alexander Ganotis
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