

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 January 2017

Public Authority: City of York Council
Address: West Offices
Station Rise
York
YO1 6GA

Decision (including any steps ordered)

1. The complainant has requested time sheets for particular individuals recording time spent on specified work. The Council provided the complainant with some information but confirmed that further information was not held under section 1(1)(a) FOIA.
2. The Commissioner considers that the Council was correct to confirm that it does not hold any further information, other than that which was provided, under section 1(1)(a) of the FOIA.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 20 February 2016 the complainant requested information of the following description:

"Please produce all the time sheets completed by CYC chief officers & CYT/WWY [City of York Trading and Work with York] directors [four named individuals] that identify the hours that they spend working on CYT LTd WWY activities and meetings.

As they have been have either been paid for the work they do on behalf of CYT, and/or are foregoing work for CYC, I want to know how their time working for this second organisation is captured and see how many hours they spent, by month since the company was formed.

For all finance staff, IT and legal staff in CYC please provide time sheets and recharge evidence for the hours they use to service CYT & WWY for the same period. Clearly there will be a robust time sheet & recharge protocol to ensure *profits* at CYT are not artificially inflated by not accounting for CYC labour charges & admin overheads. Considering two chief officers, including the S151 officer were on 'profits related performance bonuses' this information must be recorded and transparent.

What are the recharge rates to CYT/WWY by staff grade & admin overhead?"

5. On 22 March 2016 the Council responded. It provided the complainant with some information but said that some of the information requested was not held.
6. The complainant requested an internal review on 27 April 2016. The Council sent the outcome of its internal review on 31 May 2016. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner on 2 June 2016 to complain about the way her request for information had been handled.
8. The Commissioner confirmed with the complainant that her investigation would look at whether the Council was correct when it said that it does not hold any further information, other than that which has already been provided to the complainant.

Reasons for decision

9. Section 1(1)(a) of 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".
10. The Council advised that there has never been a requirement for timesheets to be completed, so the information has never existed or been held in any form.
11. It also said that there is no business purpose for the Council to hold information relevant to another business, in this case City of York

Trading Company and Work with York. It said that these are businesses wholly owned by the Council, but are separate businesses.

12. The Commissioner contacted the Council to explain that under section 6 FOIA, if City of York Trading Company and Work with York are wholly owned by the Council, they would be classed as public authorities in their own right under FOIA. She explained that under section 16 FOIA the Council is obliged to provide advice and assistance to applicants. In this case, if the requested information, whilst not held by the Council, is held by these wholly owned companies, the Council should advise the complainant that she can make requests directly to City of York Trading Company and Work with York for the information.
13. The Council clarified that for the information to be held by one of the wholly owned companies, council officers would have had to complete timesheets and submit them to one of the wholly owned companies for them to be able to hold the information. It confirmed that there was never a requirement to complete and submit timesheets and therefore the information has never existed or been held in any form, or by any agency.
14. It said that as council officers were aware that the wholly owned companies could not hold the information, the applicant was not advised to contact either of these.
15. Finally it reiterated that there is no business purpose or statutory requirement for either the Council or either of the wholly owned companies to hold this information.
16. Based upon the Council's submissions, the Commissioner is satisfied that on the balance of probabilities, no further information is held by the Council under section 1(1)(a) FOIA other than that which has already been provided.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

Gemma Garvey
Senior Case Officer

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Wilmslow
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