

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 March 2017

Public Authority: Southwark Council

Address: PO BOX 64529
London
SE1P 5LX

Decision (including any steps ordered)

1. The complainant has requested information from Southwark Council ("the Council") relating to the Council's Policy on Habitual Complainants.
2. The Commissioner's decision is that the Council does not hold any further information falling within the scope of the request.
3. The Commissioner requires the Council to take no steps.

Request and response

4. On 25 April 2016, the complainant wrote to the Council and requested information in the following terms:

"If an individual can be made an habitual complainer through the habitual complaints policy without first having made a complaint through the corporate complaints procedure please provide a copy of the relevant document specifying the process".

5. The Council responded on 10 June 2016 and explained that it held no information falling within the scope of the request. The Council explained that it only has one Habitual Complainants Policy.
6. Where a requester is dissatisfied with a public authority's response, the public authority will normally be expected to review the way it dealt with the request. The Commissioner has however exercised her discretion to accept this case without an internal review being carried out.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He disagreed with the Council's handling of his request.
8. The Commissioner has considered whether the Council holds the information sought in the request.

Reasons for decision

9. Section 1(1) of the FOIA states 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".*
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
12. The Council explained that its policies and procedures are held on its website and its intranet. It therefore carried out a search on its website and intranet for references to a habitual complainants policy. The Council explained that the only policy located by the search was the Habitual Complainants Policy which the complaint already has a copy of.
13. The Council also explained that it has checked the Council's constitution (which is available as a document on the Council's website) and it makes no reference to habitual complainants.
14. In order to be certain that no other policy/procedure was held, the Council explained that it had contacted the complaints team, the constitutional services team and the Council's deputy monitoring officer who all confirmed that no further information is held.

15. The Commissioner is therefore satisfied on the balance of probabilities that the Council does not hold any further information falling within the scope of the request.

Right of appeal

16. 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

17. 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.
18. 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

Alun Johnson
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF