

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 December 2023

Public Authority: Southend-on-Sea City Council
Address: Civic Centre
Victoria Avenue
Southend-on-Sea
SS2 6ER

Decision (including any steps ordered)

1. The complainant requested information from Southend-on-Sea City Council (the Council), including information relating to the Council's ICT Policies.
2. The Council provided some information within the scope of the request, but refused to provide the remainder, citing sections 21 (information accessible to applicant by other means) and 31 (law enforcement) of FOIA.
3. The Commissioner has considered the timeliness of the Council's handling of the request.
4. The Commissioner's decision is that the Council breached section 10(1) (time for compliance) of FOIA as it did not provide all of the non-exempt information that it held within the statutory timeframe of 20 working days.
5. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

6. On 4 July 2023, the complainant wrote to the Council and requested information in the following terms:

“Please provide copy of your current and previous version of document named: Confidential Waste policy which is referenced in the attached document that was last updated in May 2023”.

7. On 5 July 2023, they revised their request to include:

2) Please see attached document named 'Record Retention and Document Disposal Policy - May 2023', please provide the following two documents referenced within the document.

- The Retention Schedules published on the Council’s intranet
- The Council’s Record of Processing Activities (RoPA)

3) Please see attached document named 'Records Management and Data Quality Policy - May 2023', please provide the following four documents referenced within the document.

- * Southend on Sea City Council’s Publication Scheme
- * The Council’s Risk Management Strategy
- * The Council’s Flexible working/Remote Working policies
- * The Council’s ICT Policies

4) In consideration of the attached document named 'Records Management and Data Quality Policy - May 2023 and the content enclosed within it, specifically at section 9, copied below for ease — please provide copy of the most recent year's program of work that is available that was undertaken by Internal Audit Services.

9. Auditing Records management and data quality processes and procedures must support the Council’s Internal Audit Services requirements. All record keeping systems must be able to display a clear audit trail. In accordance with their audit plan, Internal Audit Services undertake a program of work each year to test the completeness, validity and accuracy of records held within Directorates”.

8. The Council responded on 9 August 2023. It provided some information within the scope of the request, but refused to provide the remainder,

citing sections 21 (information accessible to applicant by other means) and 31 (law enforcement) of FOIA.

9. The complainant disputed the Council's refusal to disclose information within the scope of part (3) of the request, namely information relating to the Council's ICT Policies.
10. Following an internal review, the Council confirmed its application of section 31(1)(a) to the information in scope of that part of the request.

Scope of the case

11. The complainant contacted the Commissioner to complain about the way their request for information had been handled.
12. During the course of the Commissioner's investigation, the Council revisited its handling of the request and provided further information to the complainant relating to its ICT policies. It also clarified its response to part (2) of the request.
13. The complainant remained dissatisfied. They did not dispute the redactions applied to the information that was provided by the Council. However, they told the Commissioner they had faced unnecessary delays in receiving the information in scope of part (3) of the request and requested a decision notice relating to the Council's delay in responding.
14. The Commissioner has addressed, in 'Other matters' below, the complainant's concern that the name on one document, in scope of part (2) of the request, that was provided to them, had not been updated.

Reasons for decision

15. Section 1(1) of 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."

16. Section 10(1) of FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt”.
17. The Commissioner recognises that the Council apologised to the complainant, on multiple occasions, that their initial response was sent outside of the statutory timeframe.
18. Nevertheless, in light of its failure to provide its initial response within 20 working days, and its subsequent disclosure of further information, the Commissioner finds that the Council breached section 10(1) of FOIA.

Other matters

19. The complainant was dissatisfied with the Council’s clarification relating to part (2) of the request. He told the Commissioner:

“Regarding the Retention Schedules, it transpires despite the Policy and Engagement team being superseded by the Corporate Strategy Group in 2019 following a restructure, there is no retention schedule named for the Corporate Strategy Service and the name on the document has not been updated”.
20. From the evidence the Commissioner has seen, the Council confirmed to the complainant that the information it provided in response to part (2) of the request, namely the document for the Policy and Engagement Team, is the current version held. It acknowledged that the name on the document has not been updated to reflect a restructure.
21. While the Commissioner recognises the complainant’s frustration regarding the naming of that document, FOIA is solely concerned with access to information. It is not within the Commissioner’s remit to assess the accuracy of information published on a website or disclosed in response to a request.

Right of appeal

22. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

23. 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.
24. 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

Michael Lea
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