

Freedom of Information Act 2000 (Section 50)

Decision Notice

Date 24 July 2007

Public Authority: Birmingham City Council
Address: Council House
Victoria Square
Birmingham
B1 1BB

Summary

The complainants submitted a request to Birmingham City Council ('the Council') for a year-by-year breakdown from 1992 onwards of those Neighbourhood Forums that were members of the Birmingham Association of Neighbourhood Forums. The Council advised the complainants that it does not hold the information requested in the format required, i.e. year-by-year. The Council did, however, provide the complainants with a list of those Neighbourhood Forums that were or had been members of the Birmingham Association of Neighbourhood Forums since 1992. Having considered the information available the Commissioner is satisfied that the information requested by the complainants is not held by the Council.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

The Request

2. On 24 October 2004 the complainants submitted a number of information requests to the Council. This included a request for the following information:

'A list from 1992 of all neighbourhood forums and money paid to each forum'

3. The Council responded to the request on 4 January 2005. It provided the complainants with a list of Neighbourhood Forums since 1992 and details of accounts since 2001, which is when the public authority became responsible for

issuing grants. The complainants were advised to contact the Birmingham Association of Neighbourhood Forums ('BANF') for any information prior to this date.

4. The complainants were not satisfied with this response. In a letter dated 17 January 2005 they clarified their request and asked for the following information:

"Year-by-year which forums existed and the source and amount of their income from public funds year-by year"

5. The Council responded in a letter dated 9 February 2005. It explained that it was unable to supply a year-by-year breakdown of forums since 1992 as it did not hold this information. The Council also explained that prior to grants being awarded by the Council in September 2001, BANF was supported via the Neighbourhood Forums Resource Centre, which was part of the Neighbourhood Office structure.
6. In response to further correspondence from the complainants, the Council confirmed in a letter dated 4 March 2005 that it was unable to supply a year-by-year breakdown since 1992 as it did not hold this information. The Council advised that any grants awarded to Neighbourhood Forums since 1992 would have been agreed by the relevant Ward Committee and recorded in the appropriate committee resolution. The complainants were advised that these records are available for public inspection in the minute books of each Ward Committee. In order to consult these records they were advised to contact the Council's Democratic Services Manager.
7. In this letter the Council also reiterated that it only became responsible for issuing grants to BANF in 2001 and Neighbourhood Forums in 2002. The complainants were provided with details of grants paid in the financial years 2002/03, 2003/04 and 2004/05.
8. The complainants wrote to the Council again on 14 March 2005 to express their dissatisfaction with the response they had received. In a separate letter of the same date the complainants repeated their request for *"a list of neighbourhood forums year-by-year since 1992"*.
9. The Council's Information Governance Manager responded on 23 March 2005 to explain that the matter had been reviewed. The Information Governance Manager confirmed that details of grants awarded to Neighbourhood Forums since 1992 would have been recorded in committee resolutions. The complainants were advised that since this information is already publicly available it was exempt under section 21 of the Act. The complainants were again advised to contact the Council to arrange a meeting to discuss the request further.
10. Over the next 12 months the complainants wrote to the Council on numerous occasions about issues relating to BANF. In this correspondence the complainants made repeated requests for a year-by-year list of neighbourhood forums since 1992 and whether or not they applied for or received a grant.

11. On 24 February 2006 the Council wrote to the complainants to advise that the information requested is available to the public through the appropriate committee resolutions and is therefore exempt under section 21 of the Act. The Council referred the complainants to its letter of 23 March 2005 and explained that it felt it was unreasonable to continue to persistently revisit this issue. The complainants were advised to refer the matter to the Commissioner.

The Investigation

Scope of the case

12. The complainants contacted the Commissioner to complain about the manner in which their request for information had been handled by the Council. The complainants specifically asked the Commissioner to consider the Council's failure to supply a year-by-year breakdown from 1992 onwards of those Neighbourhood Forums that were members of BANF.
13. The complainants confirmed in a letter to the Commissioner dated 7 May 2007 that they no longer wish to pursue the second aspect of their initial requests, in which they asked whether or not the Neighbourhood Forums had applied for or received a grant.

Chronology

14. On 28 February 2005 the complainants contacted the Commissioner to complain that the Council had failed to respond to their request for information and subsequent request for an internal review.
15. On 1 April 2005 the Commissioner wrote to the complainants to request copies of all correspondence relevant to the request.
16. On 9 May 2005 the complainants provided the Commissioner with a summary of their outstanding requests. This included details of their request for a list of Neighbourhood Forums year-by-year since 1992. The complainants explained that a list of current forums had been supplied but this was of no use as they wanted to analyse forums as they came into existence and disappeared on a year-by-year basis.
17. The complainants had been advised by the Council to request this information from BANF. However, the complainants explained that they had written to BANF on a number of occasions but the organisation had failed to respond to their letters.
18. The Commissioner wrote to the complainants on 1 July 2005 to explain that BANF was not a public authority for the purposes of the Act and was not therefore required to respond to their requests for information.

19. The complainants did not respond to this letter until 13 March 2006. In this correspondence the complainants contested the Commissioner's view that BANF did not fall within the definition of a public authority. Having re-examined the information available the Commissioner wrote to the complainants to reiterate the view that BANF is not required to respond to requests for information as it is not a public authority for the purposes of the Act.
20. On 1 May 2006 the complainants wrote again to express its view that BANF should be caught by the Act. The complainants also provided an update on the outstanding requests for information they had with the Council. This included their request for the following information:

"Year-by-year since 1992 names of Neighbourhood Forums in membership of BANF, names of all employees of BANF and individual forums, and what grants or other disbursements were received by forums during that period".
21. A number of exchanges of correspondence followed in which the Commissioner attempted to obtain copies of all relevant correspondence from the complainants.
22. On 29 September 2006 the Commissioner wrote to the Council to request details of the responses it had provided in relation to the complainants various requests for information about BANF.
23. The Council responded on 16 October 2006 and provided copies of correspondence that had been sent to and received from the complainants between 17 January 2005 and 24 February 2006. This included the letters of 4 March 2005, 23 March 2005 and 24 February 2006 in which the complainant was advised that details of grants awarded to Neighbourhood Forums since 1992 would have been agreed by the relevant Ward Committee and recorded in the appropriate committee resolutions.
24. Having examined the information supplied, the Commissioner wrote to the Council on 14 November 2006 seeking confirmation that the minute books of each Ward Committee since 1992 would be available for inspection, and enquiring how the complainant could access this information.
25. The Council replied on 16 November 2006 and explained that all Ward Committee records are available in the Archives Section at the Central Library, Birmingham. In addition, all Committee records from July 2004 onwards are available via the City Council's website www.birmingham.gov.uk. The Council advised, however, that it would probably be quicker to obtain this information direct from BANF.
26. On 21 November 2006 the Commissioner provided the complainants with details of the Council's response.
27. The complainants replied in a letter dated 27 November 2006 and confirmed that Ward Committee minutes were easily consulted and appear to faithfully record grants paid by the Council to Neighbourhood Forums. However, the complainants stated that membership of BANF and the dispersal of grants were completely

different matters and what they were seeking was a year-by-year record of which Neighbourhood Forums were full members of BANF.

28. On 12 March 2007 and 2 April 2007, the Commissioner wrote to the Council seeking clarification of whether it holds a list of Neighbourhood Forums that have been members of BANF for any years since 1992, including current membership.
29. The Council responded on 3 April 2007 providing the Commissioner with a list of those Neighbourhood Forums which are/have been members of BANF since 1992, including current membership. This was an updated version of the list provided to the complainant in response to his initial request of 24 October 2004.
30. In an email dated 13 June 2007 the Commissioner asked the Council how it is able to produce a list of those Neighbourhood Forums that have been members of BANF since 1992, but is unable to produce a year-by-year breakdown of membership over this period.
31. The Council explained to the Commissioner that the list of all Neighbourhood Forums since 1992 was obtained by asking for the document from BANF. The Council confirmed to the Commissioner that until this point it did not hold any such list. The Council has since approached BANF to ask if they possess this information on a year-by-year basis. The organisation advised the Council that this would require its records to be analysed, and as BANF is not a public authority it does not have any obligation under the Act to conduct this analysis.

Analysis

Procedural matters

Section 1(1) – the general right of access

32. The Commissioner has considered whether the information requested by the complainant's on 17 January 2005 is held by the Council for the purposes of the Act.
33. The Council has advised that the Commissioner that it does not hold the information requested by the complainants as required, i.e. a year-by-year breakdown from 1992 onwards of those Neighbourhood Forums that were members of BANF. The Council has provided the complainant with a list of those Neighbourhood Forums which are or have been members of BANF since 1992.
34. Having considered the information provided by the Council, the Commissioner is satisfied that the information requested by the complaint is not held by the Council. The Commissioner is therefore of the view that the Council has complied with section 1(1) of the Act. Section 1(1) of the Act provides 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.”*

The Decision

35. The Commissioner's decision is that the Council dealt with the request for information in accordance with section 1 of the Act.

Steps Required

36. The Commissioner requires no steps to be taken.

Other matters

37. The Commissioner has contacted BANF directly to establish whether it holds a list of Neighbourhood Forums that are current or past members of the organisation and, if so, whether this information is available to the public.
38. At the time of writing, the Commissioner has received no response to this enquiry.

Right of Appeal

39. Either party has the right to appeal against this Decision Notice to the Information Tribunal. Information about the appeals process may be obtained from:

Information Tribunal
Arnhem House Support Centre
PO Box 6987
Leicester
LE1 6ZX

Tel: 0845 600 0877
Fax: 0116 249 4253
Email: informationtribunal@dca.gsi.gov.uk

Any Notice of Appeal should be served on the Tribunal within 28 calendar days of the date on which this Decision Notice is served.

Dated the 24th day of July 2007

Signed

**Marie Anderson
Assistant Commissioner (NI)**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**