

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

9 June 2009

**Public Authority:** Brighton and Hove City Council  
**Address:** Kings House  
Grand Avenue  
Hove  
East Sussex  
BN3 2LS

#### Summary

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The complainant requested information from the Council concerning what was described by the complainant as, "the Council's strategy for the reduction of its waste of taxpayer's money" and its policy on the disclosure of information. The Council did not initially respond, however the information held by the Council was provided following the complaint to the Commissioner. As the information held by the Council has now been provided, the Commissioner requires no steps to be taken. He found breaches of section 10(1) and 17(1).

#### The Commissioner's Role

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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 FOIA"). This Notice sets out his decision.

#### The Request

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2. On 21 May 2006, the complainant requested information in the following terms:  
  
"In accordance with the provisions of the FOI, would you please provide details of:
  - The Council's strategy for the reduction of its waste of taxpayer's money for the last full financial year, together with details of the targets set, the extent to which those targets had been met, and the reasons why any of those targets had not been met

- The Council's strategy for the reduction of its waste of taxpayer's money for the current financial year, together with details of the targets set
  - The contact details for the person responsible for implementing and monitoring those strategies
  - The Council's current policy on the disclosure of information
  - The contact details for the person responsible for implementing and monitoring that policy?"
3. Brighton and Hove City Council ("the Council") did not respond to the requests despite reminders that were sent by the complainant.
  4. Following an initial complaint, the Commissioner contacted the Council on 7 April 2007 and asked it to respond to the request.
  5. The Council responded on 3 May 2007. It stated that it was not entirely sure what information the complainant was seeking regarding the first three bullet points of the request but it stated that all financial information could be accessed on its website. It asked the complainant to clarify what information he wanted if the information on the website was not satisfactory. It stated that as far as it could determine at this stage, the information was already publicly available and it was therefore exempt under section 21 of the FOIA. Regarding the fourth and fifth bullet point, the Council provided the information requested.
  6. On 20 February 2008 and 5 March 2008, the complainant requested an internal review.
  7. On 20 March 2008, the Council responded and provided the information that it held.
  8. On 24 March 2008, the complainant wrote to the Council and asked it to confirm that it holds no other information relevant to the request.
  9. The Council responded on 27 March 2008. It stated that although the information held did not correspond exactly to what had been asked for, it confirmed that it holds no further information.
  10. The complainant complained to the Commissioner on 29 June 2008. He stated that he accepted that the information that was held had been provided to him by the Council on 20 March 2008 but he wished to pursue his complaint about the Council's handling of his request.

## **The Investigation**

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### **Scope of the case**

11. The initial complaint to the Commissioner was made on 3 September 2006. On 29 June 2008 following receipt of the information held by the Council, the complainant asked the Commissioner to consider the time delay and stated that it

appeared that the Council had failed to comply with sections 1(3) and 16(1) of the FOIA.

## **Chronology**

12. On 17 July 2008, the Commissioner wrote to the complainant acknowledging that the request had not been properly handled. He stated that he had written to the Council to express his concerns and enclosed a copy of the letter that was written on the same day.
13. The complainant subsequently wrote to the Commissioner on various occasions refusing to withdraw his complaint.

## **Analysis**

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### **Procedural matters**

14. When the Council responded to the request on 3 May 2007, it did not state whether it held the information requested by the complainant when, in the Commissioner's view, the request was not unclear. As the Council failed to confirm or deny whether the information was held within 20 working days, the Commissioner found a breach of section 10(1).
15. The Commissioner finds that the public authority was not obliged to seek further clarification of the request under section 1(3) of the FOIA and there was no breach of section 16(1) of the FOIA.
16. When the Council responded on 3 May 2007, it provided the information requested in the fourth and fifth bullet points of the request. As this information was not provided in accordance with section 1(1)(b) within 20 working days, the Council breached section 10(1).
17. When the Council initially responded to the first three bullet points of the request, it applied the exemption under section 21. As this was not claimed within 20 working days of receipt of the request, the Council breached section 17(1).
18. By the time of its internal review, the Council had provided the information it held to the complainant. As the Council failed to provide this within 20 working days, it breached section 10(1).

### **The Decision**

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19. The Commissioner's decision is that the public authority did not deal with the request for information in accordance with the FOIA in the following respects:

- It breached section 10(1) for failing to comply with section 1(1)(a) and 1(1)(b) within 20 working days;
- It breached section 17(1) for not issuing a refusal notice within 20 working days.

## Steps Required

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20. As the information has been provided, the Commissioner does not require the public authority to take any steps.

## Right of Appeal

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21. 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](mailto: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 9<sup>th</sup> day of June 2009**

**Signed .....**

**Steve Wood  
Assistant Commissioner  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**

## **Legal Annex**

### General Right to Access

Section 1(1) provides that:

“(1) 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.”

Section 1(3) provides that:

“Where a public authority:

(a) reasonably requires further information in order to identify and locate the information requested, and

(b) has informed the applicant of that requirement,

the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.”

### Time for Compliance

Section 10(1) provides that:

“Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.”

### Refusal of Request

Section 17(1) provides that:

“A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which -

(a) states that fact,

(b) specifies the exemption in question, and

(c) states (if that would not otherwise be apparent) why the exemption applies.”

Duty to provide Advice and Assistance

Section 16(1) provides that:

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it”.

Information Accessible by other Means

Section 21(1) provides that:

“Information which is reasonably accessible to the applicant otherwise than under section 1 is exempt information.”