

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 May 2013

Public Authority: Bristol City Council
Address: City Hall
Bristol
BS99 7PH

Decision (including any steps ordered)

1. The complainant requested information from Bristol City Council ("the council") under the Freedom of Information Act 2000 ("the FOIA") relating to discussions between council officials or councillors about the council's use of government procurement cards for the purpose of paying senior council officers' expenses. He also asked about the destruction of any relevant information and whether this complied with the council's policy. The council provided some information that did not appear to fall within the scope of the request, but which it thought would be helpful, and said that no further information was held. The complainant did not accept that response.
2. The Commissioner's decision is that, on the balance of probabilities, no information was held.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 4 February 2012, the complainant requested information from the council in the following terms:

"Under the terms of the Freedom of Information Act 2000, I request disclosure of all documentation held in electronic and paper form over the last twelve months, ascertaining to all meetings held, or communications made, between councillors and officials and between officials, over Bristol City Council's use of the Government Procurement Card for the purpose of paying senior council official expenses and the disclosure of this material to the public."

I further request disclosure of information about the quantity of documentation on this matter which has been destroyed over this period and whether this destruction has complied with Council policy on the holding and storing of information which is likely to be in the public interest”.

5. The council responded on 2 May 2012. The council said that it had provided some guidance documents from its intranet but no other information was held.
6. On 15 May 2012, the complainant requested an internal review.
7. The council completed its internal review on 10 September 2012. The council reiterated its position that the information was not held.

Scope of the case

8. On 2 October 2012, the complainant contacted the Commissioner to complain about the way his request for information had been handled. He specifically asked the Commissioner to consider whether the council had correctly said that it did not hold information relating to discussions between council officials and councillors about the procurement cards.

Reasons for decision

Section 1 – General right of access

9. Section 1 of the FOIA provides a general right of access to recorded information held by public authorities. It 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, and if that is the case, to have that information communicated to him.
10. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. He will also consider the actions taken by the authority to check that the information was not held and he will consider if the authority is able to explain why the information was not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held. He is only required to make a

judgement on whether the information was held "on the balance of probabilities".¹

11. At the start of his investigation, the Commissioner contacted the complainant to confirm his understanding of the scope of the request and also to ask him about the reasons why he did not accept the response provided by the council. The Commissioner said that his understanding was that the complainant was essentially asking for general information relating to discussions about the council's use of the cards. The complainant confirmed this was the case. The complainant had already provided some information about why he considered more information was held and he referred to this again. He referred to the fact that he had received an email from a councillor which had mentioned a potential meeting between the council's Head of Finance and another councillor about the use of the cards. The complainant said that he did not have any other particular reasons for not accepting the council's response.

12. The council told the Commissioner that there was a specific officer in the Finance and Procurement Department who had been responsible for procurement cards throughout and he had been consulted about the request, as had his line manager. It had been confirmed that all correspondence relating to the council's use of the procurement cards would either have been sent to or by the officer who had this particular responsibility and that there were no issues during the period covered by the scope of this request. He said he knew that there was no correspondence to be disclosed. The same officer would also have been involved in any committee discussions in relation to procurement cards during this period, so was also in a position to confirm that there were no recorded meetings during the relevant time frame. The council added that the minutes of the Audit Committee for the specific period are on the council's website and provided links to the Commissioner. It highlighted that the minutes contained no information indicating that the use of procurement cards had been discussed during the relevant period. Officers in the council's Strategic Leadership Team had also been consulted and had confirmed that they would not hold any additional information. The council said that it was not aware of any meetings other than that mentioned by the complainant but if any had taken place, they were of an informal nature and so not recorded.

13. The council said that it had no reason to believe that any relevant information had been deleted, destroyed or mislaid. It said that it was very unlikely that relevant information would have been recorded outside of the consulted areas. Procurement cards were not a "live

¹ This approach is supported by the Information Tribunal's findings in Linda Bromley and Others / Environment Agency (31 August 2007) EA/2006/0072

issue" in the period in question and the council said that there were no particular reasons why it might expect to have had any discussions about procurement cards. No concerns, problems or issues had been expressed at that time with the exception of the councillor enquiry discussed below.

14. In relation to the email which the complainant told the Commissioner was relevant to his request, the council said that it had not been aware of that email. The council said that its Head of Finance had been consulted and confirmed that he does recall that a meeting took place with two councillors on 14 December 2011, primarily to discuss general budgetary matters. He also said that he personally had no recollection of discussing the use of procurement cards at the meeting. The councillor involved in the meeting was subsequently consulted and he said that he had raised the issue of how the cards were used, whether the expense was significant and how senior officer spending is authorised. The councillor recalled that the response was that the council did not use government procurement cards to the same extent as other local authorities, the expense was not significant and details of the authorisation process were provided. The councillor was content with the response given and no further action or discussions took place. The council confirmed that no record of this meeting was taken.
15. In view of the above, the Commissioner accepts that on the balance of probabilities, the council did not hold the information requested. The council has been able to account for the circumstances why it was unlikely that any information would be held in any event, and it has consulted appropriately to confirm that was the case. It has been able to explain the circumstances surrounding the particular area of concern raised by the complainant and while it is accepted that a brief exchange took place on the issue, no formal records or actions were considered necessary that may have pointed towards a likelihood of more information being held. The complainant has not provided any other evidence that would suggest that the council had not identified relevant information and there are no other circumstances that obviously point to the existence of unidentified information.

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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

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