

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 January 2014

Public Authority: London Borough of Hillingdon
Address: Civic Centre
Uxbridge
Middlesex
UB8 1UW

Decision (including any steps ordered)

1. The complainant has asked the London Borough of Hillingdon (LBH) for copies of various emails' and diaries between specific dates in 2010. LBH provided the information it held, but the complainant is not satisfied that LBH has provided everything it holds.
2. The Commissioner's decision is that LBH has complied with the FOIA in that, on the balance of probabilities, no further information is held by LBH within the scope of the request.
3. As the information has been provided, the Commissioner does not require LBH to take any steps.

Request and response

4. On 1 December 2012, the complainant wrote to LBH and requested information in the following terms:

"e-mails relating to: Afghanistan Votes, [complainant's name redacted], and [company name complainant worked for] either directly by name or in reference too.

emails between '[name redacted] (now [name redacted])' and 'Electoral Administrators' (between and including Friday 23rd of April 2010 and September 30st 2010);

emails between '[name redacted]' and *'Colleagues in Electoral Administration' including '[name redacted]'* (*[name redacted] at that time*) and the then appointed Returning /Deputy Returning Officer, from and including 24th March 2010 until May 31st 2010).

Working diary arrangements for appointed Returning /Deputy Returning Officer Parliamentary Election 2010, in a 17 day timetable I find it a little odd that he would be on a golf course that Friday? Are they not paid a fee for running their elections? Therefore, I think this request is in the public's interest, they are paying."

5. On 6 December 2012, LBH asked the complainant to clarify parts of the request, which she did on the 10 December 2012.
6. On 19 December 2012, LBH wrote to the complainant stating that the request was a subject access request and it would respond within 40 days.
7. LBH responded on 29 January 2013. It provided its response to the request, by supplying the following:
 - A general office google calendar for the Parliamentary timetable period.
 - [Name redacted] outlook diary ([name redacted] now [name redacted] who was a Deputy Returning Officer for that election).
 - [Name redacted] outlook diary ([Name redacted] is the current Returning Officer).
8. LBH confirmed it held no further information within the scope of the request.
9. The complainant requested an internal review on 31 January 2013 as she was not satisfied that all the information had been provided.
10. LBH provided its response to the internal review request on the 13 February 2013. It maintained that it held no further information within the scope of the request. It also stated:

"you specify that your request is a request for information under the Freedom of Information Act 2000(FOIA), notwithstanding the cost limit issues inherent which would apply to a Freedom of Information Request of this nature (S12 FOIA) – as you are requesting access to your personal data – i.e information about yourself – this information is explicitly exempt from the requirements of the FOIA. S40 (1) of the

FOIA provides that information is exempt where it comprises the applicants personal data."

Background

11. The Commissioner understands that this request has been made because the complainant requires information, particularly emails, to support a complaint that she has made with regards to a member of staff at LBH.
12. The council explained that this is a long running complaint and that the information sought is so intrinsically linked to the complaint that it must all be her personal data. However, having reviewed the information that the council supplied in paragraph 7, the Commissioner is not convinced that this is the case and considered that the request fell under both regimes.

Scope of the case

13. The complainant contacted the Commissioner as she is not satisfied that LBH has dealt with the FOIA elements of her request and as a result, not provided her with all the information it holds.
14. The Commissioner considers that the scope of the case is to determine if any further information is held by LBH, under the FOIA, that falls within the scope of the complainant's request.

Reasons for decision

Section 1 - Is the information held?

15. Section 1 of the FOIA 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 so, to have that information communicated to them.
16. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. The Commissioner must decide whether on the balance of probabilities the public authority holds any further

information which falls within the scope of the request (or was held at the time of the request).

17. The Commissioner therefore asked LBH to revisit the request and provide details of how it manages records and the searches it has carried out to locate the information sought.
18. LBH has advised that as no personal computers are used by the officers named in the information request, the Networked computers and email system they use were searched.
19. It confirmed that all information, if held, would be held electronically and it would expect officers to keep a tidy email inbox and emails relevant to a particular matter/ case to be stored on the case file.
20. LBH carried out searches on the email systems of the relevant members of staff and also used search terms supplied by the complainant for any email's containing [first name of complainant redacted], [first and last name of complainant redacted], [first name redacted], [First and last name redacted], [company website redacted] and Afghanistan in the heading or body of the text. LBH advised the search automatically searches the recycle bin.
21. LBH has also stated that while its backup system would technically be able to be searched back to 2011, this would require specialist staff to do so. However as the information in question is from 2010, so this would prove to be fruitless.
22. LBH is of the opinion that no further information was ever held and it has no record of its existence. LBH also advise that it has asked the complainant to provide it with copies of the emails she says she has that shows further information is held. However, LBH says that these have never been provided.
23. LBH conclude by stating that searches were undertaken under both a DPA and FOIA perspective, which was done twice for completeness and an investigation in to the complainant's overall complaint has not identified any other information matching the request.
24. The complainant has requested a search to be carried out by forensic IT professionals. The Commissioner however, considers that appropriate searches have been carried out for the purposes of the FOIA.
25. The complainant states that she has numerous emails that should have appeared in her request to LBH. The Commissioner does not dispute whether or not the complainant holds information; it is a question of whether LBH held the information at the time of the request.

In consideration of the searches carried out by LBH and that its retrieval system is unable to go back as far as 2010, the Commissioner is satisfied that, on the balance of probabilities, no further information is held by LBH than what has already been provided. Accordingly, he does not consider there is any breach of section 1 of the FOIA.

Right of appeal

26. 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: GRC@hmcts.gsi.gov.uk

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

27. 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.
28. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF