

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 8 August 2016

Public Authority: London Borough of Bromley
Address: Civic Centre
Stockwell Close
Bromley
BR1 3UH

Decision (including any steps ordered)

1. The complainant has requested from the London Borough of Bromley (the 'Council') information relating to Village Green Way dated from June 2004.
2. The Commissioner has determined that the Council was correct to apply section 12 of the FOIA to the request. Therefore, she does not require the Council to take any steps.

Request and response

3. On 14 September 2015 the complainant wrote to the Council and requested information in the following terms:

"I require all and any information that you hold regarding to Village Green Way dated back to June 2004, This must include all letter correspondence - internal and external incoming and outgoing, all e-mails internal and external, any investigations and results from such concerning Village Green Way, any post it notes, memos or minutes from any meetings both internal and external, any contemporaneous notes taken at any time and any transcripts from telephone conversations, reports or applications on information on the roadway or anything to do with it.

I also require answers for questions that I have previously requested that have not been answered. These are:-

- *The application process to request permission for a gate to open across a highway*
 - *The status of my formal application to yourself on the above.*
 - *The dimensions that you stated to me that you had the information for on on the LBB Highway part of Village Green Way*
 - *The dimensions to the demarcation point from the accessway to the beginning of the footpath /alleyway which goes into Allenby Road.*
 - *The reasoning has been changed as to why was the initial representative who described himself as the 'Traffic Officer' from the LB of Bromley seemingly happy with this gate as a solution for the problems experienced by myself and my neighbours.*
 - *I would also now since our conversation request that you on behalf of the LB of Bromley give me reasoning as to why you refute, on behalf of the LB of Bromley, the documentation that I stated after being guided to it by your own LB of Bromley representatives*
 - *Also please make available to myself the guidelines you as the LBB Council do use please."*
4. On 18 October 2015 the complainant contacted the Information Commissioner's Office (the 'ICO') about the Council's handling of his request for information.
 5. On 20 October 2015 the Council provided its response and confirmed that it holds information falling within the scope of the request. However, the Council refused to comply with the request under section 12 of the FOIA.

Scope of the case

6. The complainant contacted the Commissioner again on 14 January 2016 to complain about the way his request for information had been handled.
7. The Commissioner considers the scope of this case to be to determine if the Council correctly applied section 12(1) of the FOIA to the request for information. She will also consider whether the Council had taken reasonable steps to provide advice and assistance in accordance with section 16(1) of the FOIA to the request.

Reasons for decision

Section 12 – the cost of compliance

8. Section 12(1) allows a public authority to refuse to comply with a request for information if the authority estimates that the cost of compliance would exceed the 'appropriate limit', as defined by the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Regulations.)
9. This limit is set in the fees regulations at £600 for central government departments and £450 for all other public authorities. The fees regulations also specify that the cost of complying with a request must be calculated at the rate of £25 per hour, meaning that section 12(1) effectively imposes a time limit of 18 hours in this case.
10. In estimating whether complying with a request would exceed the appropriate limit, Regulation 4(3) states that an authority can only take into account the costs it reasonably expects to incur in:
 - a. determining whether it holds the information;
 - b. locating a document containing the information;
 - c. retrieving a document containing the information; and
 - d. extracting the information from a document containing it.
11. The four activities are sequential, covering the retrieval process of the information by the public authority.

The Council's position

12. The Council confirmed that it holds information falling within the scope of the request. However, the Council estimated that the cost of complying with the request would exceed the appropriate limit of £450. It reported that this represents the estimated costs of one person spending 2.5 working days in determining whether the Council holds information and locating, retrieving and extracting the information.
13. The Council advised the complainant that if they were to make a new request for a narrower category of information, it may be able to comply with that request within the appropriate limit but it could not guarantee that this would be the case.
14. The Council informed the complainant that if he required a review of its decision, he could appeal to a senior officer in its Corporate Services

Department as per its procedure. However, the complainant bypassed this stage and complained to the ICO.

15. The Council considers that it has, where possible, responded to all of the complainant's queries which he has raised concerning Village Green Way. The Council argued that the complainant does not accept the responses given and although detailed responses were provided, he repeatedly raised the same queries to the Council.
16. In relation to this FOIA request, the Council explained what checks would be required in order to comply. It reported that the Council is a large organisation consisting of 3 Directorates split into 18 Divisions with a total of 68 (approximate) separate teams. The Council said that all of the teams would need to check their files and databases and potentially retrieve individual records. It added that any of the teams could hold information relating to Village Green Way dating back to June 2004.
17. The Council continued to explain that all information regarding a particular street is not held by the Council by one team or on one database. Documentation and information could be held in different mediums, for example, in paper form, on microfiche or electronically by any of the teams. Each team may also have its own method of archiving documentation which may not be archived according to a particular road or particular area. It added that the information / documentation may also be held off site in storage.
18. The Council estimated that if every team spent a minimum of one hour checking whether they may have any documentation or information concerning Village Green Way, it could take approximately 68 hours.
19. The Council continued to explain that once any information / documentation is identified, further investigation would be required to check whether it relates to Village Green Way, or for example just the district where Village Green Way is located.
20. The Council said that most pre-dated technical files are kept off-site in storage. It argued that although the retrieval process of each storage box may not be particularly time consuming, attempting to identify the correct files can take up significant amounts of time. Especially if the date of a specific piece of correspondence is unknown and searches are required through several thick files. The Council stated that there is also the additional time of arranging for the files to be returned to storage.

The Commissioner's view

21. The Commissioner has considered the Council's estimation for complying with the request and she is satisfied with the Council's explanation as to why compliance to this request would exceed the appropriate cost limit.

22. The Commissioner acknowledges that the information in question dates back to June 2004 and that it could be held by more than one team and held in various different methods. She accepts that it would be a time consuming process of approximately 68 hours in order to retrieve the files, identify and search through the files for the purposes of responding to the request.
23. The Commissioner notes that the Council had already provided information and responses to the complainant's numerous requests regarding Village Green Way. However, the supporting evidence shows that the complainant remained dissatisfied as he returned to the Council with concerns to the matter.
24. Having considered the circumstances to this case, the Commissioner finds that the Council correctly refused the request for information under section 12(1) of the FOIA as complying would exceed the appropriate limit.

Section 16 – Advice and assistance

25. Where a public authority claims that section 12 is engaged, the Commissioner expects that it should, where reasonable, provide advice and assistance under section 16 of the FOIA. This is in order to help the requestor to refine the request so that it can be dealt with under the appropriate limit.
26. The Commissioner notes in this case that the Council had advised the complainant that it may be able to comply with a narrower request for information within the appropriate limit. However, the complainant did not respond to the Council's advice. Although the complainant believed his queries had not been answered, the Commissioner recognises that there had been a willing engagement from the Council regarding the complainant's concerns.
27. In view of this, the Commissioner's finding is that the Council complied with its duty to provide advice and assistance.

Right of appeal

28. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

29. 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.
30. 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

Rachael Cragg
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Wycliffe House
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SK9 5AF