

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 December 2022

Public Authority: Ribble Valley Borough Council
Address: Council Offices
Church Walk
Clitheroe
Lancashire
BB7 2RA

Decision (including any steps ordered)

1. The complainant requested information from Ribble Valley Borough Council ("the Council") relating to wells in Clitheroe. The Council disclosed some information in response to the request, however the complainant believes the Council holds further information within the scope of the request.
2. The Commissioner is not satisfied that, on the balance of probabilities, the Council does not hold further information within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request following searches aimed at identifying all the information held within the scope of the request.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

Request and response

5. On 8 July 2021, the complainant wrote to the Council and requested information in the following terms:

“1. Details of the additional insurance cost to the Council, following the First Registration by the Council of Stock Well, in July 2019.

2. Access to view, and where necessary copy/record, the Council's records of all financial expenditure on Stock Well, Heild Well and St. Mary's Well from April 1974 until the present date.

3. The legal basis for the Council's claim that any further applications to The Land Registry would be 'deceitful, unlawful and illegal'.

4. Confirm when the Campaign's paper's supporting our 're-presented case' - need to be submitted,

5. Indicate the dates when the Meeting Agenda will be published, and

6. Confirm when the Council's own reports and recommendations will be available for consideration by the Public.”

6. The Council denied holding the information requested in part 1 of the request and provided some information within the scope of parts 2 to 6 of the request.
7. The complainant requested an internal review, stating that they believe the Council holds further information within scope of parts 2, 3 and 6 of the request. The final position of the Council was that no further information was held.

Reasons for decision

8. This reasoning covers whether the Council has provided all the information it holds within the scope of the request.
9. The Council's position is that it has provided the complainant with all the information it holds within the scope of the request. The complainant considers that the Council has not identified all the information it holds within the scope of parts 2, 3 and 6 of their request.

10. The complainant believes that the Council holds further information within the scope of part 3 of the request in particular because it had previously informed them that it had sought legal advice on its position regarding the wells. The complainant provided copies to the Commissioner of the correspondence in which this was stated.
11. During the course of his investigation the Commissioner provided the Council with the opportunity to address whether such legal advice was held and to provide details of the searches it had carried out to ensure that all information within scope of the request had been identified. However, the Council did not take this opportunity.
12. In the absence of this information from the Council, the Commissioner is not satisfied that, on the balance of probabilities, the Council does not hold further information within the scope of the request.
13. The Commissioner requires the Council to issue the complainant with a fresh response to their request following searches aimed at identifying all the information held within the scope of the request. If the Council locates further information within the scope of the request, that information should either be disclosed to the complainant or an adequate refusal notice should be provided.

Other matters

14. The Commissioner also finds it necessary to record within this decision notice the time taken by the Council to provide its internal review response. There is no obligation under FOIA for a public authority to provide an internal review process. However, it is good practice to do so, and where an authority chooses to offer one, the code of practice¹ established under section 45 of FOIA sets out, in general terms, the procedure that should be followed.
15. The code states that reviews should be conducted promptly and within reasonable timescales. The Commissioner has interpreted this to mean that internal reviews should take no longer than 20 working days in most cases, or 40 in exceptional circumstances. In no case should the internal review exceed 40 working days.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf

16. The complainant asked for an internal review on 9 September 2021. An internal review was provided on 21 December 2021, this was outside of 40 working days.
17. The Commissioner considers that in failing to conduct an internal review within the timescales set out above, the Council has not acted in accordance with the section 45 code. This is a matter that may be revisited should similar outcomes be noted by the Commissioner in any future cases relating to the Council.

Right of appeal

18. 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@justice.gov.uk

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

19. 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.
20. 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

Victoria James
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF