

Freedom of Information Act 2000 (Section 50)

Decision Notice

20 June 2011

Public Authority: London Borough of Croydon
Address: Taberner House
Park Lane
Croydon
CR9 3JS

Summary

The complainant asked the Council to release detailed account information relating to the funding it received for the Croydon Local Involvement Network (LINK). He required information which detailed how the funding had been spent by Croydon Voluntary Action (CVA); the organisation contracted by the Council to host the LINK. The Council responded confirming that it only holds the annual accounts produced by CVA and it does not hold information which provides a more detailed breakdown of the expenditure of the LINK funding. As the complainant remained dissatisfied, he approached the Commissioner. The Commissioner made enquiries to the Council to establish exactly what information it does hold which falls within the scope of the request. The Commissioner is satisfied that the Council only holds the information already provided to the complainant and that on the balance of probabilities the Council does not hold the more detailed account information the complainant requires. He therefore requires no further action to be taken.

The Commissioner's Role

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 "Act"). This Notice sets out his decision.

Background

2. The Council was given £188,000 from central government towards the cost of running the LINK for 2008/09 to 2010/11. The LINK is a network of local people, organisations and groups set up to improve the health and social care services in its area. The Council is currently in a contract with CVA to act as host for the LINK.

The Request

3. The complainant contacted the Council on 29 July 2010 to request the following information:

“Dear [name redacted], I have been given sight of the LINK account for the year ending 31st March 2010, as I told [name redacted], I would wish to see a breakdown of the figures not just a total amount. Also who audited them? As CVA is not a Statutory Body they are exempt from the [Freedom of Information] Act 2000. However, your Council is not exempt. Please may I see these accounts showings items spent not just the total. ”

4. The Council responded on 11 August 2010. It provided a table of information relating to the accounts of CVA for the year ending 31 March 2010.
5. The complainant responded on 11 August 2010. He stated that he was unhappy with the information provided, as it does not provide the level of detail he requires. The complainant stated that the information he has received is the total income and expenditure for whole categories and he requires a more detailed breakdown of these figures to show exactly how the central government funding has been spent.
6. The Council responded on 14 September 2010 stating again that it did not hold the requested information. It provided the complainant with links to the information it does hold, which can also be found on the CVA's website. It suggested to the complainant that if he remained dissatisfied he should request an internal review.
7. The complainant requested an internal review on 15 September 2010.
8. The Council responded on 22 September 2010 explaining in more detail why it does not hold the detailed breakdown of the account information provided on 11 August and 14 September 2010.

The Investigation

Scope of the case

9. On 4 October 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant stated that he considers the Council should and does in fact hold the detailed account information he requires relating to the funding provided for the LINK and therefore the Council has refused to provide it under the Act.
10. In his correspondence to the Commissioner the complainant stated that he considers the Council should obtain the requested information from CVA if it does not hold it. The Commissioner wishes to point out that this is not an issue he can consider or indeed recommend. The Act only provides the right of access to information a public authority holds; it does not give any right to request that information is created or obtained from a particular source in order to answer a request.
11. During his investigation the Commissioner noted that the Council had failed to address the complainant's request to know who had audited CVA's annual accounts. The Commissioner asked the Council to respond to this element of the request. The Council confirmed that it holds the name of the Auditors used by CVA and released this information to the complainant on 20 April 2011.
12. As the Council released the name of CVA's auditors to the complainant during the Commissioner's investigation, the Commissioner considers this element of the complainant's request has been resolved. The Notice will therefore concentrate on whether on the balance of probabilities the Council holds the detailed account information the complainant requires relating to the LINK.

Chronology

13. The Commissioner wrote to the Council on 8 November 2010 to inform it that he had received a complaint from the complainant.
14. The Council responded on 24 November 2010 providing a chronology of events.
15. The Commissioner contacted the Council by telephone on 19 April 2011 to discuss the complaint in more detail.
16. The Commissioner wrote to the complainant on 20 April 2011 to outline his preliminary view and to ask him to consider withdrawing his complaint.

17. The complainant responded the same day (20 April 2011) to inform the Commissioner that he was unwilling to withdraw his complaint. The complainant explained in more detailed why he considers the Council should hold the detailed account information he requires relating to the LINK.
18. The Commissioner wrote to Council on 26 April 2011 to request that it provides a response to the complainant's further reasons as to why he considers the information should be held. The Commissioner asked the Council to respond by 10 May 2011.
19. As the Commissioner received no response, he contacted the Council on 16 May, 23 May and 1 June 2011 to chase the matter up.
20. The Council responded on 2 June 2011.

Analysis

Does the Council hold the requested information?

21. The Council confirmed that its contract with CVA requires CVA to maintain adequate books and records and to make these available for inspection on request. It also advised that the contract terms and conditions require CVA to furnish the Council with audited accounts.
22. The Council explained that it only holds the account information supplied to the complainant on 11 August and 14 September 2010. It confirmed that it does not hold more specific detailed account information which shows exactly how the LINK funding has been spent. It referred back to the contractual terms and conditions and explained that it would only hold this sort of information if it had good reason to question a specific area of the accounts, for example, if it had received a serious complaint, had a suspicion of misappropriation or issues over the delivery of services. To date no such complaint, suspicion or concerns over delivery have arisen. It has therefore had no reason to question the account information it does hold or indeed request CVA to provide more detailed expenditure information.
23. The Council advised the CVA has a track record of successfully managing community based networks and forums similar to the LINK. According to the Council, managing networks is within CVA's charitable objects and activities, as described in the organisations entry on the Charity Commission website. The Council stated that hosting the LINK falls within CVA's charitable objects and therefore there is no reason why income from the LINK contract should not be included in its annual accounts alongside other income. The Council confirmed that CVA treats

the LINK contract payments as a 'restricted fund'. This means the payments can only be used for the project the payments were given for. The Council explained that CVA listed all its restricted funds in its accounts. These accounts are fully audited in accordance with Charity Commissioner and Companies House requirements.

24. The Council further stated that, in addition to publishing its annual accounts, CVA puts summary accounts in the LINK annual report. Again, the LINK report is a public domain which is readily available on CVA's website.
25. The Commissioner is satisfied from the enquiries he has made that on the balance of probabilities the Council does not hold the detailed account information the complainant requires relating to the LINK funding. The Council explained the contract terms and conditions and how CVA meets these. He is satisfied that no reason or event has arisen to date which would give the Council cause for concern or to request the sort of information the complainant requires.

The Decision

26. The Commissioner's decision is that overall the Council dealt with the request for information in accordance with the Act.

Steps Required

27. The Commissioner requires no steps to be taken.

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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Dated the 20th day of June 2011

Signed

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

Legal Annex

General Right of Access

Section 1(1) provides that -

"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."