

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 August 2014

Public Authority: London Borough of Hackney
Address: Town Hall
Mare Street
London
E8 1AE

Decision (including any steps ordered)

1. The complainant has requested from the London Borough of Hackney ("the Council") information relating to the Hacknington Self Help Housing Co-operative, Hackney Short Life Users Group and Kush Housing Association. The information requested is of a historical nature covering a period between 1980 and 1989. The Council advised the Commissioner that the information requested dated back circa 30 years and that searches it had undertaken had not found any of the requested information. Additionally that its records retention schedule would mean that the documents, if held, were likely to have been destroyed around 15 years ago.
2. The Commissioner's decision is that in view of the historical nature of the information requested it is likely, on the balance of probabilities, that the information is not held. He therefore does not require the Council to take any steps to comply with the legislation.

Request and Response

3. On 12 March 2014 the complainant requested information relating to the Hacknington Self Help Co-operative as follows:

"I write regarding the above organisation and request the following information, under the FREEDOM OF INFORMATION ACT 2000 (FOIA 2000)

- *All details of Hacknington Self Help Housing Co-operative's registration application to HSLUG (Hackney Short Life Users Group) 1980-1984*
 - *All details of the names of members of Hacknington Self Help Housing Co-operative 1980 – 1984*
 - *The name of the licensee of Hacknington Self Help Housing Co-operative, with HSLUG 1981 – 1984*
 - *All details of Hacknington Self Help Housing Co-operative's membership of HSLUG (Hackney Short Life Users Group) 1984 – 1989*
 - *All details of any affiliated groups to Hacknington Self Help Housing Co-operative 1980 -1984*
 - *Any other useful correspondence: Articles and Memorandum of Association for Kush Housing Association 1981 -1982*
 - *Details of any information regarding the name of the licensee in the arrangements with HSLUG (Hackney Short Life Users Group) and name of its founder"*
4. On 14 April 2014 the Council provided a response to the request advising that it did not hold the information requested and gave advice to the complainant about a separate organisation (The Places for People Group) who may be able to assist.
5. On 23 April 2014 the complainant advised the Information Commissioner's Office (the "ICO") that he was not satisfied with the response received.

6. On 7 May 2014 the ICO advised the complainant that it would be necessary to seek an internal review of the Council's response to the FOIA request dated 12 March 2014.
7. On 11 May 2014 the complainant requested an internal review of the response to the request.
8. On 18 June 2014 the complainant advised the ICO that a response to his request for an internal review had not been received.

Scope of the case

9. On 18 June 2014 the complainant lodged a complaint with the Information Commissioner's Office stating that he was not satisfied with the response he had received to his request. He also advised that he had not received a response to his request for an internal review.
10. The scope of this case has therefore been to consider whether any relevant information is held and whether the Council has complied with its obligations under the FOIA.

Reasons for decision

11. Section 1(1) of the FOIA states 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."

12. In situations where there is a dispute between a public authority and a complainant about whether the requested information is held, the Commissioner applies the civil standard of the balance of probabilities. The Commissioner must therefore decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request. In applying this test the Commissioner will consider the scope, quality, thoroughness and results of the searches and other explanations offered as to why the information is not held.
13. The Council has provided the Commissioner with an overview of the way in which it handled the request for information. It explained that it had

established that the service area which relates to the requested information dates back approximately 30 years to the 1980's.

14. Enquiries by the Council have established that the members of staff who worked in this area and who would have been familiar with the type of information requested and its related filing system no longer work for the Council. It established that the person responsible for the setting up of this this filing system left the Council's employment around 12 years ago.
15. The Commissioner has also been advised that the current document management system of the Council was put in place in 2006 and all historic documents were scanned into the system at this time. Searches made of this system have identified a document from 2007 relating to Kush Housing Co-operative. This however does not fall within the scope of this request and no earlier documents would appear to have been located.
16. The Commissioner has also been advised that because of the lack of knowledge about the groups identified in the request the Council conducted general internet searches upon receipt of the request. This was to try and obtain information which may point towards any links with current Council groups or departments to enable further searches to be conducted.
17. The Commissioner was advised that the searches revealed no information linking the Hacknington Self Help Housing Co-operative to the Council. In respect of the Kush Housing Co-operative, the Council advised that it identified that this group changed onto the organisation known as "Places for People". This group is an association which the Council advises it has no links with. It advised the complainant to contact this group for further information as part of its response.
18. In considering the steps taken by the Council in dealing with this request the Commissioner has also asked for details of its document retention policy and systems. The Council has advised that under its current records retention schedule Licences should be retained for a period of 15 years. In the current circumstances it advises that it is possible the information would have been destroyed circa 15 years ago.
19. As part of his investigation the Commissioner has had to consider the nature and scope of the searches undertaken by the Council to ensure that no information is held.
20. In considering the obligations of the Council under the FOIA the Commissioner is mindful that the civil standard of the balance of

probabilities has to be applied. In this situation the requested information relates to the set-up, membership and licences in connection with bodies that existed in the 1980's and some of which no longer exist.

21. The Commissioner has taken into account the explanations provided by the Council in stating that it does not hold the requested information. He finds it reasonable for the Council to state that it is likely that the records were destroyed 15 years ago and are no longer held.
22. Having taken into account the explanations provided by the Council the Commissioner considers that on the balance of probabilities no further information is held.
23. The Commissioner is therefore satisfied that the Council has met its obligations under the FOIA and requires no further action to be taken.

Other matters

24. Under the FOIA a public authority is not legally required to have an internal review procedure. However, in order to conform to the Section 45 Code of Practice, an authority should have a review procedure in place. This states that a request for an internal review, where an internal review procedure exists, should be dealt with within a reasonable timeframe.
25. The Commissioner's guidance 'Time limits on carrying out Internal Reviews' states that a one-stage review should be completed in 20 working days, although in exceptional circumstances it could take up to 40 working days.
26. The Commissioner notes that the internal review requested by the complainant was not carried out according to the guidelines provided in the Code of Practice issued under Section 45 of the FOIA.

Right of appeal

27. 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

28. 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.
29. 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
Group Manager
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SK9 5AF