

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 March 2022

Public Authority: London Borough of Newham
Address: Newham Dockside
1000 Dockside Road
London E16 2QU

Decision (including any steps ordered)

1. The complainant requested a copy of an audit report. London Borough of Newham (the "council") disclosed the requested information and confirmed that no further information was held.
2. The Commissioner's decision is that the council has disclosed all the relevant information that it holds and complied with section 1(1) but that it failed to do this within 20 working days and breached section 10(1).
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 26 August 2020, the complainant wrote to London Borough of Newham (the "council") and requested information in the following terms:

"I request a complete copy or access to the full CIPFA audit mentioned in the Statement of Accounts of 2018/2019. The link provided by *redacted* to the Information Commissioner does not work and I cannot find access to the full CIPFA audit report.

As well please provide complete details of the following which are detailed in the Statement of Accounts found in the CIPFA audit: three prior period adjustments, a significant level of errors identified during the audit, financial control weaknesses for journal processes and records."

5. The council responded on 24 September 2020 and disclosed some information, provided to the complainant via links to sections of its website.
6. The complainant wrote to the council and asked it to carry out an internal review. The complainant asked the council to address the following:

"I still request to see the actual CIPFA report that was presented to the Mayor, the Corporate Management Team, and the Chief Executive. The CIPFA report link referred to in the letter dated the 23rd of September states it is only a presentation: "This presentation contains only the high level results of our work, based on a series on interviews and reviews of documentation in July last". The details of the full report would be in the interest of the electorate, I believe, if put into the public domain."

7. Following an internal review the council wrote to the complainant on 6 January 2021. It provided the complainant with a copy of the requested report and also stated that it "...would further chase externally (through CIPFA) to finalise this was the last version and would provide a final response once this was confirmed."
8. On 14 February 2021 the complainant wrote to the council and asked for a copy of the final version of the report referred to in the council's internal review. On 17 February 2021 the council disclosed a copy of the requested report.
9. Following further emails from the complainant the council provided a final response on 8 March 2021. It confirmed that "...the document

disclosed previously, totalling 45 pages dated 09.10.18 titled "Feedback to the Corporate Management Team" is the longest and most detailed report held by the Council in respect of this review. It is the same report that was presented to Councillors. No other longer or more detailed report is held by the Council."

10. However, the council also stated:

"In respect of your continued claim for a full CIPFA audit report, under Part A of your request for review, we must extend our sincere apologies that we have still yet to confirm as to whether the recommendations held are indeed the full and complete report held by the authority or there is a further more complete report which has yet to be located. As previously advised, we will continue and are hopeful we can provide the confirmed and final response on this matter to you shortly."

Scope of the case

11. On 7 April 2021 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
12. The Commissioner confirmed with the complainant that his investigation would consider whether the council had disclosed the full and final version of the requested CIPFA (Chartered Institute of Public Finance and Accountancy) audit report.

Reasons for decision

Section 1 – Duty to provide information

13. Section 1(1) of FOIA states:

"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 the information communicated to him."

14. Section 10(1) of FOIA states:

"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

15. The complainant considers that the disclosed version of the requested report, the "Feedback to the Corporate Management Team" report or "CIPFA audit report" is not the final or more comprehensive version of the report which they believe is held by the council.
16. In support of their belief the complainant has made reference to a document published on the council's website titled "Finance Review Final Report to the Mayor November 2018." (the "Final Report to the Mayor")¹
17. The complainant has drawn attention to page 5 of the Final Report to the Mayor, which states:

"This presentation contains only the high level results of our work, based on a series on interviews and reviews of documentation in July last.

More detailed presentations have been made to the Mayor, the Chief Executive and the Corporate Management team."
18. The complainant has also stated that they have been advised by councillors at the council that a longer version of the CIPFA audit report disclosed to them exists.
19. In addition to the above, the complainant has made reference to an email from the council dated 9 December 2020, sent during the course of correspondence about their request, which stated:

"We have now received the full version of the report from the service and we are just reviewing it for any possible sections which may need to be exempt under the Act (personal data/commercial sensitivity.)

Once this has been completed and the final response has been approved, we will send it out to you."
20. The Commissioner approached the council in relation to the above matters and he has established the following facts.
21. The council confirmed that the "Finance Review Final Report to the Mayor November 2018" published on its website was 38 pages in length

¹ <https://www.newham.gov.uk/downloads/file/2063/cipfaincercereviewfinalreportnov2018>

and was the only publicly available version of the CIPFA report at the time the request was made.

22. The council further confirmed that the document referred to in its email to the complainant of 9 December 2020, that is the "full" version of the CIPFA report, was disclosed to the complainant on 17 February 2021. This version of the CIPFA report is 45 pages in length. The council has confirmed that this version of the CIPFA report is also that referred to in the Final Report to the Mayor (see above).
23. The council has additionally explained that its Corporate Director has confirmed no further longer version of the CIPFA report is held.
24. In relation to the complainant's assertion that they had been advised that a longer version of the CIPFA report was held, the council confirmed that it had contacted a councillor referred to by the complainant. The councillor in question confirmed that they had not advised any resident of the existence of a further "full" CIPFA report, nor had they ever read a longer report than the 45 page report which has been disclosed to the complainant.

Conclusions

25. The Commissioner is mindful that the complainant has a genuine belief that further information relevant to their request, specifically a longer version of the CIPFA report is held.
26. The Commissioner accepts that the complainant has some justification for thinking a more substantial document is held by the council. The final CIPFA report is dated 9 October 2018 and is only some 7 pages longer than the "high level" "Final Report to the Mayor", dated November 2018. However, the Commissioner recognises that the CIPFA Report was intended for internal presentation and the "Final Report to the Mayor" was created for external publication.
27. The Commissioner also recognises that, whilst the complainant believes a longer report should be held, this does not necessarily mean that this is the case and the evidence they have provided in this regard is only circumstantial.
28. Having pressed the council a number of times on this issue and received explicit assurances, the Commissioner is satisfied that, on the balance of probabilities, it is likely that the council has disclosed all the relevant information that it holds. He considers that the complainant has been provided with the final, full version of the requested CIPFA report and finds that the council complied with section 1(1).

29. However, the Commissioner is mindful that it took the council some time to locate and disclose the CIPFA report to the complainant and that in failing to do this within 20 working days it breached section 10(1).

Right of appeal

30. 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

31. 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.
32. 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

Ben Tomes
Group Manager
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SK9 5AF