

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 September 2016

Public Authority: Horsham District Council

Address: Parkside
Chart Way
Horsham
West Sussex
RH12 1RL

Decision (including any steps ordered)

1. The complainant has requested information related to a grant for Steyning Area Youth Service. The Commissioner's decision is that, on the balance of probabilities, Horsham District Council does not hold further information relevant to this request. She does not require any steps to be taken to ensure compliance with the legislation.

Request and response

2. On 30 December 2015, the complainant wrote to Horsham District Council ('the council') and requested information in the following terms:

"Freedom of Information Act Request re grant of £7,913.32 to Steyning Area Youth Service in or about March 2014"

In early 2013 with HDC winding down its youth service the Steyning Area Youth Service was set up to take over some of the functions previously undertaken by HDC. The Steyning Area Youth Service is a joint venture by the parish councils of Steyning, Upper Beeding, Bramber and Ashurst. A separate legal entity was established, namely the Steyning Area Youth Service Charity (SAYS) which was to be responsible for the area youth service functions. At an early stage it was realised that if SAYS paid for goods and services then it was liable to pay irrecoverable VAT whereas if the parish councils paid for the same goods and services they could recover VAT thus reducing the cost to local tax-payers by 20%. Accordingly the councils took over the most important functions and paid for them direct.

Two significant grant payment were then made. One by HDC and one by WSCC. I believe that the HDC payment of £7,913.32 went through the books of Steyning Parish Council whereas the WSCC one went straight to SAYS. The HDC payment was apparently banked by SAYS on 26 March 2014. The result is that SAYS has large financial reserves but virtually nothing to spend those reserves on and that VAT will be payable whenever it does make payments. Accordingly it would be useful if it could be established that the grant payments are held by SAYS rather than by the parish councils as a result of an error. SAYS could then refund the parish councils and achieve a 20% saving for local tax-payers.

In these circumstances please may I have copies of all documents including, but not limited to, correspondence with the parish councils, correspondence with SAYS, internal file notes and financial authorisation documents relating to all grant or other payments made to the Steyning Area Youth service, whether to the councils or to the charity with particular reference to the terms on which payment was made and who the intended beneficiary was."

3. The council responded on 27 January 2016. It said that it has conducted a search and does not hold the information described in the request. It also said that it complies with the Local Government Transparency Code and has published details of a £7,913.32 payment made to Steyning Parish Council on 22 August 2013 and provided the following link:

<https://data.horsham.gov.uk/View/finance/payments-over-500>

4. On 28 January 2016 the complainant requested an internal review. His request for a review included the following statement:

"There must have been an authorisation process preceded by a decision making process and this must, surely, be documented. One or more HDC officers must have been approached by SPC or by SAYS or by an elected representative making the case to see if the funds could be transferred and describing the purpose."

He referred to a specific council officer and a letter dated 25 February 2013 which he believes has been withheld and considers to fall within the terms of the request. He also clarified that he is requesting documents regardless of whether the payment went to SPC or to SAYS or anyone else and that it is the documents which establish how the payment came to be made and for whose benefit that he is interested in.

5. The council provided an internal review response on 24 February 2016. It said that it conducted a subsequent search and found additional

information which it then provided (a letter dated 25 February 2013). It also said that the council officer the complainant had referred to was no longer employed by the council.

6. On 24 February 2016, the complainant drew the council's attention to two conditions, within the information provided as a result of the internal review, and stated that both conditions should have produced additional documentation falling within the terms of the original request. He said that the two conditions are as follows:
 - Neighbourhood /Parish Clusters will be asked to outline their proposed approach/strategy in relation to this funding before it is released. Neighbourhood/Parish Clusters will be asked to report on its use.
 - Neighbourhood/Parish Clusters will be asked to account for expenditure of these grant monies at the end of 2013/14.

The complainant also stated that such conditions should have resulted in the following three classes of document being held by the council:

- 1 the SAYS Cluster outline of their proposed approach/strategy,
- 2 a report on the use of the money; and
- 3 an accounting process at the end of 2013/14.

7. The council responded on 22 March 2016 stating that the internal review process has been completed and referring the complainant to the Information Commissioner's Office.

Scope of the case

8. The complainant contacted the Commissioner on 22 March 2016 to complain about the way his request for information had been handled.
9. The Commissioner has considered whether, on the balance of probabilities, the council holds further information within the scope of the request.

Reasons for decision

10. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.

11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information was held, she is only required to make a judgement on whether the information was held on the civil standard of the balance of probabilities.
12. As stated in paragraph 4, the complaint believes that there must have been a decision and authorisation process prior to the payment being made. He also believes that documentation should have been produced as a result of conditions applied to the grant, as stated in paragraph 6.
13. The Commissioner enquired as to whether further information has ever been held, the scope, quality, thoroughness and results of the searches carried out by the council, whether information had ever been held but deleted and whether copies of information may have been made and held in other locations. She asked the council to bear in mind that the scope of the request is wide ranging and could include documents of the type described by the complainant (those being: the SAYS Cluster outline of their proposed approach/strategy; a report on the use of the money; and an accounting process at the end of 2013/14). The Commissioner also informed the council that it is feasible that other information could exist relating to how the payment came to be made, including application for and authorisation of the payment, and for whose benefit, and that these could either pre or post-date the letter dated 25 February 2013.
14. The council explained that consequent to the relocation of its office accommodation in May 2015, the preference of the council is to maintain electronic records management. It said that, as the requestor was informed, the officer responsible for the matters that form the subject of the request had left the council and the search for information was assisted by the Head of Community and Culture, who was the line manager of that post holder at the relevant time. It said that the searches that were carried out were electronic searches of electronic files on the council's networked resources, including emails and information held by the Head of Community and Culture, and that such searches were appropriate in the absence of hard copy files. The search terms used were all files specifically labelled youth, community development, Steyning, SAYS and other appropriate variables including date fields. The council also said that because the Head of Community and Culture has no record of the holding of the information, there is no

record of any deletion, or of copies being made and held in other locations, and that its records management policy (in place since 2012 and subsequently refreshed), does not detail such a specific record for retention.

15. In relation to the complainants assertion that there must have been a decision and authorisation process prior to the payment being made, the council said that the grant decision was made on publically available information only.
16. In relation to the complainant's assertion that documentation should have been produced as a result of conditions applied to the grant, the council explained that the current Head of Service is fully aware that the grant was passed to SAYS by the Parish Council and that this was done with the District Councils consent and agreement. It said that the grant has achieved its aims of seed funding the scheme and allowing the deliverer to attract other funding whilst retaining the grant as an operating balance. It further explained that because:
 - there was no time limit on when it needed to be spend by
 - the outcome is classic community development work (with small investment leading to sustainable provision)
 - the delivering organisations accounts are in the public domain
 - there is periodic dialogue between the Council and deliverer

the fact that it cannot find the documents is not a concern to them, and even if they had existed, their purpose would have ceased to be important as soon as agreement was reached between the council and the Parish Council that delivery of the local scheme would be led and managed through SAYS. It is certainly the view of the council that these documents are irrelevant now. The council summarised that the fact that it does not have the documentation may be because the officer left and did not follow up a request for the documentation but it is equally possible that it was felt that the requested documentation was no longer considered necessary and it was thus no longer required. It is certainly the view of the Head of Service that the documentation is needless given the corporate knowledge of the situation and the effectiveness in securing the desired outcomes.

17. The Commissioner enquired as to what happens with an employee's email account once they have left the council and was informed that email accounts are deleted by the council's IT department within a few days of an employee leaving.
18. In reaching a decision as to whether the requested information is held, the Commissioner also enquired whether there was any legal

requirement or business need for the council to hold the information. The council confirm that there is neither a business need nor statutory requirement to retain the requested information.

19. The Commissioner also considered whether the council had any reason or motive to conceal the requested information but she has not seen any evidence of wrongdoing surrounding its records management obligations and has not identified any reason or motive to conceal the requested information.
20. In the circumstances, the Commissioner does not consider that there is any evidence that would justify refusing to accept the council's position that it does not hold further information relevant to this request. The Commissioner appreciates the complainant's view that further information relating to the awarding of a grant should be held but acknowledges that there is often a difference between what a complainant believes should be held with what is actually held by a public authority. The council has carried out relevant searches, provided feasible explanations as to why further information is not held, and confirmed that emails of the officer referred to by the complainant will have been deleted when that officer left council. The Commissioner is therefore satisfied that on the balance of probabilities, further information is not held by the council. Accordingly, she does not consider that there was any evidence of a breach of section 1 of the FOIA.

Right of appeal

21. 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

22. 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.
23. 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

Deborah Clark
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF