

Road
Sheffield S

Lorraine Manley - Director - Corporate Resources
Sheffield City Council
Town Hall
Sheffield S1 2HH

29 July 2008

Dear Lorraine Manley,

Annual Statement of Accounts

For this query, both the right of the citizen to inspect accounts during the period that they are 'open' and the FOIA apply, along with any other statutory requirements, such as the Local Government Act 1999.

Another consideration is the current administration's repeated claims of openness, honesty and accountability.

1. South Yorkshire Trading Standards Unit

1.1 It has been reported that there has been a £7million, or a £14million, shortfall in the accounts of the SYTSU. Please clarify the correct amount.

The 'missing' money, as presented to citizens and elected members, has never been more than 'alleged' missing money or 'virtual' losses. No substantive evidence to support the allegations has been seen. However, the virtual losses have been replaced with real funds, taken from the ratepayers. Ratepayers are entitled to receive assurance, supported by robust, auditable, financial documentation, that the council can prove the allegations, and so justify the multi-million pound penalty to the ratepayer.

1.2 Please allow the inspection of the accounts showing the evidence that proves the allegations made, and, as applicable, please provide these proving documents if not in the accounts.

1.3 Later, when this period of inspection is over, an explanation as to why the council's internal audit appeared to fail for ten years would be appreciated.

2. Local Government Pension Scheme

Requests for information about this have been made previously. Since then, a ruling has directed that elected members who are recipients of a subsidy to their pensions at the ratepayers' expense are not entitled to anonymity, as the public interest prevails.

2.1 Please allow the inspection of the accounts showing which members are in receipt of a ratepayer-subsidised pension scheme.

This request supercedes the reply I received from Liz Bashforth on 19 December 2007.

3. Entertainment / Celebrity / Hospitality expenses.

3.1 Please allow inspection of the section of the accounts that details and identifies people who receive ratepayers' money for having been classed as 'celebrity', or who receive a retainer.

3.2 Please detail Hospitality and Corporate Entertainment expenses, showing event, date, reason, and recipients. If the work has been done, please demonstrate the financial advantage to ratepayers of these expenses.

The above information is deliverable in keeping with the advice received from the District Auditor on 25 February 2008.

4. Common Purpose (CP)

This is a new subject, so please excuse this citizen's tentative first steps at seeking to see a demonstration of corporate financial transparency to the ratepayer. In recent months there has been increasing local and national publicity about an organisation called Common Purpose, yet no mention in the Annual Accounts of local authorities.

The following questions apply to the accounts currently open for inspection, and, as a public information request, cumulatively for the past six years.

I do not give this council my permission to pass on any of my details to the organisation (CP) that is the subject of this information request.

4.1 How much has the council spent on CP training ? Please provide details, including recipients, showing where these are referenced in the open accounts, allowing inspection as necessary.

4.2 Later, but within the FoIA proscribed time, please provide the above accumulatively for the past six years.

4.3 How much has the council spent on grants to other organisations that have used that money to buy CP training? Please reply as above, for the open accounts and accumulatively for the past six years.

For the purposes of this information request, the term 'member' shall be used for CP personnel who are officers, or have received training, or are graduates of CP, or are placements within the local authority as employees or elected members, or placements through ratepayer financed groups.

Please show, in the accounts, and allowing inspection as necessary, the information detailed below. If this information is not included in the accounts, then FoIA applies, and shall be provided in any case.

4.4 Have any local authority employees or elected members used the organisation's time or resources for their CP activities ? Please provide details of these activities that show how the council has made a distinction between CP and ratepayer liabilities. Examples requiring financial transparency and accountability may include but are not limited to: attending meetings as a CP representative in ratepayer time, CP related activities, use of offices, communications, printing, amenities, stationery, recruitment, meetings, etc. This information is sought for inspection in the open accounts, and then later, for the previous six years.

4.56 For the year for which the current open accounts apply, and then for the previous six years, please provide and allow the inspection of the evidence demonstrating the financial advantage to the ratepayer that is expected to have accrued, which would not otherwise have accrued but for the expenditure on CP members, training, provision of resources, etc.

I look forward to inspecting the above referenced accounts and receiving the information required above.

Yours sincerely,

Xxxxxxxx

REPLY TO LETTER ABOVE

Reference: 12/001/08

To: Mr

Notice under Section 17(1) of the Freedom of Information Act 2000 - REFUSAL OF REQUEST FOR INFORMATION

Thank you for your request for information dated the 29 July 2008, and received by the City Council on the 30 July 2008, in respect of the following requests for information

- “3.2 Please detail Hospitality and Corporate Entertainment expenses, showing event, date, reason, and recipients. If the work has been done, please demonstrate the financial advantage to the ratepayers of these expenses”
- 4.1 How much has the council spent on CP (Common Purpose) training? Please provide details including recipients, showing where these are referenced in the open accounts, allowing inspection as necessary.
- 4.2 Later, but within the FoIA proscribed time, please provide the above accumulatively for the past six years.
- 4.5 For the year which the current accounts apply, and then for the previous six years, please provide and allow the inspection of the evidence demonstrating the financial advantage to the ratepayer that is expected to have accrued, which would not otherwise have accrued but for the expenditure on CP members, training, provision of resources etc.”

The request for this information was expressly addressed under the specific powers of access to information under Sections 14 and 15 of the Audit Commission Act 1998 (the 1998 Act). As the information requested exceeded the information capable of being requested under these sections, the excess fell within the remit of the general right of access under the Freedom of Information Act 2000 (FOIA 2000) as it complied with Section 8 of the FOIA 2000. Your rights of access under the 1998 Act has been communicated to you under separate letter, which should be read in conjunction with this Refusal Notice so as to establish what is covered by the respective rights of access. No right of appeal will exist to the Information Commissioner in respect of the information covered by the 1998 Act.

Decision:

After carefully considering your request, the Sheffield City Council (the City Council) has decided to refuse to disclose the information you have asked for under **Section 12** of the Freedom of Information Act 2000 (FOIA 2000) in relation to the above request.

Basis for decision:

This exemption allows the City Council to refuse to disclose information where the City Council estimates that the cost of complying with the request would exceed the appropriate limit, which for the City Council is £450.00, or the equivalent of 18 hours of officer time at the statutory maximum rate of £25.00 per hour (rather than the actual charge for officers time which is likely to be higher). We can only do this if it is not in the public interest to disclose the information. This is called an "exemption".

Why does the exemption apply in this case?:

The information requested is not held in discrete files or categories rendering them relatively easily to locate, instead they are scattered throughout the invoices, receipts and other financial records generated and held by the various parts of the City Council and would require all such records to be examined individually to ascertain whether or not they contain any of the information requested.

For the current year this would be well over 30 hours work, even though the open account period has just closed and these records are in the best possible condition for such a search. This figure would be proportionately greater for a search encompassing the previous 6 years, creating a minimum use of officer time in excess of 180 hours, presuming all the above searches could be conducted concurrently. If not this would further increase the amount of officer time required, impeding further the operation of the internal audit service..

The public interest:

We must decide whether it is in the public interest to disclose the information you have asked for. We make this decision by balancing the public interest in disclosing the information against the public interest in not disclosing it.

Factors in favour of the disclosure of this information

- The principle of transparency of the expenditure of public money would indicate that information about public finances should be disclosed.

Factors in favour of not disclosing this information

- The amount of officer time required to meet this request would seriously disrupt the internal audit operations of the City Council.

The balance of the public interest

Whilst the transparency of the expenditure of public money is an important factor, it has been heavily mitigated by the operation of Sections 14 and 15 of the Audit Commission Act 1998, which have just allowed for public inspection of the City Council's finances and which you have taken the opportunity to make an application under that legislation. This right of access was also available to you and any other member of the public for the remainder of the period in question. Parliament has in this instance ensured that the appropriate degree of transparency has been achieved under the 1998 Act.

Reviewing this decision:

You can, if you want, ask us to review this decision. You do this by writing to the City Council within 20 working days following the date of receipt of this Refusal Notice requesting a review. A review of the issue of this Refusal Notice will be undertaken by an officer senior to that undertaking the initial decision in this matter, and a written reply will be communicated to you within 10 working days of the receipt of the request of the review by the City Council. This initial determination has been made by Peter Harrow, Solicitor. Should you still be dissatisfied with the decision on the review of the issue of this Refusal Notice then you may take this matter up with the Information Commissioner

You can apply to the Information Commissioner for a decision about our compliance or otherwise with the Freedom of Information legislation. Contact the Commissioner for details on how to do this - telephone 01625 545700, address: Information Commissioner, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Internet: <http://www.informationcommissioner.gov.uk/>

Please note however that you are expected to have gone through the internal review procedure before taking up this matter with the Information Commissioner

Signed: *Liz Bashforth*

Assistant Chief Executive

Date: 1 September 2008

Relevant extract from the Freedom of Information Act 2000:

Section 12 - Exemption where cost of compliance exceeds appropriate limit

(1) Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit.

(2) Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit.

(3) In subsections (1) and (2) “the appropriate limit” means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases.

(4) The Secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be estimated total cost of complying with all of them.

(5) The Secretary of State may by Regulation make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are to be estimated.

Chief Executive's
Legal and Governance

Assistant Chief Executive

Liz Bashforth

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: 6652

Email: peter.harrow @sheffield.gov.uk

Your Ref:

Our Ref: PJH/

Date: 1 September 2008

Mr xxxxxx

xxxxxxxxxx

Dear Mr xxxxx

**Request For Information dated 29 July 2008 (Received 30 July 2008) —
FOIA 2000**

With regard to your request of the 29 July 2008, I understand a reply has been forwarded to you in respect of inspection and question power of the

The principle duty under Section 1 of the FOIA 2000 is in respect of recorded information. An explanation such as you require is not for recorded information but is instead a request for the generation of new information which fall outside this principle duty.

2. Local Government Pension Scheme

With regard to this head of your request please specify the ICO or the Information Tribunal case reference you are referring to. The City Council are not aware of any such ruling in respect of the pension entitlement of Councillors.

If you are referring to the recent case before the ICO/IT in respect of Members of Parliament please be aware that unlike in that case, it is possible for a Councillor to have acquired a pension right in the South Yorkshire scheme prior to taking up public office having previously been an officer in one or more of the constituent Councils. As consequence this pension entitlement would fall outside the public interest consideration that you cite.

2.1 You have previously been informed of the position with regard to the Audit Commission Act 1998. With regard to the parallel request under the FOIA 2000, please be aware that there is no right of inspection in respect of the access power, only a right to a copy of the information requested. The accounts do not contain the information you have requested, as no personal data indicative of the status of a Member would form part of the information included in the accounts.

3. Entertainment/Celebrity/Hospitality Expenses

3.1 You have previously been informed of the position with regard to the Audit Commission Act 1998. With regard to the parallel request under the FOIA

2000, please be aware that there is no right of inspection in respect of the access power, only a right to a copy of the information requested.

The City Council have concluded that the exemption under Section 12 of the FOIA 2000 applies in respect of this part of this request and a Refusal Notice is enclosed in respect of it. Please read it.

4. Common Purpose(CP)

The City Council is aware that you have made previous requests in respect of Common Purpose to other officers of the City Council.

- 4.1 You have previously been informed of the position with regard to the Audit Commission Act 1998. With regard to the parallel request under the FOIA 2000, please be aware that there is no right of inspection in respect of the access power, only a right to a copy of the information requested. Please clarify in accordance with Section 1(3) of the FOIA 2000 as to whether when you refer to recipients you are referring to named individuals, or to departments or sections? If it is the former then please be aware that this information would likely be exempt under Section 40(2) of the FOIA 2000. You should have been notified that such personal data is now also subject to restriction under the 1998 Act. If it is the latter it would require the location of the appropriate receipts and this would be well in excess of the limit set down under Section 12 of the FOIA 2000.
- 4.2 The information requested is not kept as a single figure as there is no statutory requirement to do this. Individual invoices do exist but would be scattered around the City Council's financial records. To obtain the information requested would require the identification of the relevant invoices relating to Common Purpose filed over a period of six years. The time required for this to be undertaken would be well in excess of the limit set down under Section 12 of the FOIA 2000, and as a

consequence the City Council enclose a Refusal Notice in respect of this part of this request.

- 4.3 The City Council would have no record of what third party organisations spent grant funding on to the degree suggested, whilst grant funding may have been given to third party organisations for the purposes of funding training it would not specify a particular trainer. I would suggest that you contact the relevant third party organisations in respect of this information.
- 4.4 The City Council reasonably request that you clarify in accordance with Section 1(3) of the FOIA 2000 what you mean in respect of this part of your request. The standard practice in relation to such matters is either for an employee to undertake such additional duties in his own time, with the consent of his manager, or to undertake such duties as part of his normal duties on behalf of the City Council. In the former case any remuneration for the additional duties reverts to the employee, in the latter any fee reverts to the City Council. The scenario you suggest doesn't fall into either of these categories. Please clarify which of these you are asking in relation to. In either event this would not be separately accounted for by the City Council, as in the former case it would be HMRC who would hold any such record of an outside employment or income, and in the latter there is no requirement to make such a record.

The same would apply as regards use of City Council resources.

- 4.5 You have previously been informed of the position with regard to the Audit Commission Act 1998. With regard to the parallel request under the FOIA 2000, please be aware that there is no right of inspection in respect of the access power, only a right to a copy of the information requested.

The request for financial advantage would not be for information which would be recorded other than in respect of any fees remitted to the City Council, which would be scattered about the invoice system of the City Council and would exceed the Section 12 limit to locate and identify. This is covered by the enclosed Refusal Notice.

The majority of such benefits would be in intangible benefits such as investing in human resource development or goodwill which cannot be proved in the manner suggested in any event.

The SYTSU partner Council's are privy to the investigations currently being undertaken in respect of this matter, this is a matter of public record, as they had access to the SYTSU accounts during the period in question, and will be responsible for the shortfall as set out on the first. The situation regarding the ongoing investigation has previously been outlined to you in Refusal Notice 31/001/06 sent to you on or around the 9 September 2006.

The City Council await clarification of the above points.

Yours sincerely

Liz Bashforth

LIZ BASHFORTH

Assistant Chief Executive

G: CEX/L&G/CorpLegal/FOIandEIRMatters/Letters/010908A