

## Freedom of Information Act 2000 (the Act) Decision notice

**Date:** 9 July 2012

**Public Authority:** Nottingham City Council  
**Address:** Loxley House  
Station Street  
Nottingham  
NG2 3NG

### Decision

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1. The complainant has requested:

*Details of a meeting between Councillor Jon Collins and Detective Chief Superintendent Ian Waterfield of the Nottinghamshire Police in July 2010 to discuss findings (including interim findings) of investigations carried out by the police and/or by the District Auditor in relation to the misallocation of council houses in the city between 2003 and 2005.*

2. The Commissioner's decision is that Nottingham City Council does not hold any recorded information falling within the scope of the complainant's request.
3. The Commissioner finds that Nottingham City Council has breached section 10(1) of the Act by failing to respond to the complainant's request promptly and in any event with twenty working days.
4. The Commissioner does not require Nottingham City Council to take any steps to ensure compliance with the legislation in this case.

### Request and response

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5. On 3 December 2010 the complainant wrote to the council and requested information in the following terms:

*'Please could you provide me with details of a meeting which took place between Councillor Jon Collins<sup>1</sup> and Detective Chief Superintendent Ian Waterfield in July 2010 to discuss findings and progress (including*

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<sup>1</sup> Leader of Nottingham City Council

*interim findings) of investigations carried out by the police and/or by the District Auditor in relation to the misallocation of council houses in the city between 2003 and 2005? (The District Auditor's investigation eventually concluded with publication of his Public Interest Report into the matter in January 2009). I would be grateful if the disclosure would include details of:*

*Where the discussion took place:*

- *all those who attended*
  - *the purpose of the meeting*
  - *an outline of what was discussed at the meeting*
  - *decisions taken at the meeting*
  - *Undertakings given at the meeting*
  - *Minutes of the meeting'*
6. The council responded on 1 June 2011. It stated that, as there were no meetings between Councillor Jon Collins and Detective Chief Superintendent Ian Waterfield in July 2010, no recorded information was held.
  7. On 8 June the complainant requested an internal review. He said he was surprised that no recorded information was held and suggested that there should be correspondence in relation to the meeting even if it was cancelled. He expressed the view that such correspondence would fall within the scope of his request as he asked for 'details of the meeting'. He then asked for full details of the searches carried by the council including searches of any private email accounts that may have been used.
  8. Following an internal review the council wrote to the complainant on 4 July 2011. It stated that there was no meeting between Councillor Jon Collins and any representatives of Nottinghamshire Police cancelled or otherwise during the specified period. Accordingly, it reiterated that no recorded information was held. The council added that searches were carried out of its official email system by its Resources and ICT departments. However, it said that personal/private email accounts were not searched as it would not be aware of or have authority to monitor them.
  9. Following the intervention of the Commissioner, the council wrote to the complainant again on 19 August 2011 and clarified that although no

meeting took place between Councillor Jon Collins and the Nottinghamshire Police in July 2010 one was requested without the purpose being specified. However, once it was established that the meeting related to housing allocations, the matter was passed to the council's Director of Legal and Democratic Services (Glen O'Connell) to progress and Councillor Jon Collins had no further involvement in the meeting.

10. The council has also confirmed to the complainant that a meeting did take place between the council and the Nottinghamshire Police on 29 July 2010 but it was not attended by Councillor Jon Collins.

### **Scope of the case**

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11. The complainant contacted the Commissioner on various dates during 2011. Initially, to complain about the council's failure to respond to his request and subsequently about its assertion that no recorded information was held.

### **Reasons for decision**

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#### **Does the council hold any recorded information?**

12. The main question for the Commissioner to consider in this case is whether the council holds any recorded information falling within the scope of the complainant's request. The decision of the Information Tribunal in the case of *Bromley v Information Commissioner and the Environment Agency EA/2006/0072* clarified that the test to be applied to determine whether a public authority held any recorded information was one based on a balance of probabilities rather than certainty.

#### **Section 1(1) of the Act**

13. Section 1(1) of the Act 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.

## Meaning of the request

14. It is apparent to the Commissioner that prior to making the request the complainant had seen evidence<sup>2</sup> to suggest Councillor Jon Collins would be meeting with Nottinghamshire Police in July 2010 to discuss matters relating to council housing. This is why he phrased the request in the way that he did. It is also apparent to the Commissioner from his investigation that Councillor Jon Collins, although initially invited, did not attend this meeting once it became apparent that it related to housing allocation matters. The Commissioner notes that a meeting with the Nottinghamshire Police did take place on 29 July 2010 where the council was represented by its Director of Legal and Democratic Services (Glen O'Connell).
15. The complainant believes that even if there was no meeting between Councillor Jon Collins and the Nottinghamshire Police his request for 'details of a meeting' was phrased widely enough to include any correspondence relating to it. For example, correspondence exchanged prior to and after the meeting relating to its location, attendees and notes.
16. Based on an objective reading of the request the Commissioner has concluded that it related to details of a meeting between Councillor Jon Collins and Nottinghamshire Police in July which the complainant<sup>3</sup> believed was scheduled to take place. The fact that Councillor Jon Collins did not attend this meeting (for the reasons stated above) does not, in the Commissioner's view, prevent the council from stating that it did not hold any recorded information.
17. The Commissioner does not consider that any of the correspondence relating to the meeting on 29 July 2010 is covered by the scope of the complainant's request. However, he does accept that such correspondence may fall within the meaning of the complainant's related requests for correspondence between various individuals at the council and Nottinghamshire Police between October 2009 and December 2010 relating to the misallocation of council housing. These issues are dealt with by the Commissioner in his Decision Notices FS50400009 and FS50400014.

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<sup>2</sup> <http://www.thisisnottingham.co.uk/unanswered-questions-scandal-council-homes/story-12723710-detail/story.html>

<sup>3</sup> <http://www.thisisnottingham.co.uk/unanswered-questions-scandal-council-homes/story-12723710-detail/story.html>

18. The Commissioner has concluded on an objective reading of the complainant's request that it does not hold any recorded information falling within the scope of the present request.

### **Other matters**

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19. The Commissioner finds that the council breached section 10(1) of the Act by failing to respond to the complainant's request promptly and in any event within twenty working days following the date of receipt.

## Right of appeal

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20. 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: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

21. 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.
22. 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** .....

**Graham Smith**  
**Deputy Commissioner**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**