

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 26 August 2015

Public Authority: London Borough of Lambeth
Address: Town Hall
Brixton Hill
Lambeth
SW2 1RW

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Lambeth ("the Council") relating to a former employee of the Council.
2. The Commissioner's decision is that the Council holds no recorded information falling within the scope of the request.
3. The Commissioner requires the Council to take no steps.

Request and response

4. On 11 March 2015, the complainant wrote to the Council and requested information in the following terms:

"1. Could the council please provide a copy of the personnel file (similar) which it held and still holds for [redacted name]. This file will relate to [redacted name] employment by the council and will include but will not be limited to any allegations of abuse and misconduct raised by [redacted name]. It will also contain information relating to [redacted name] death. Of course information could have been added to the file after [redacted name] death. I do not anticipate any data protection implications.

2. Do the following sections of the council hold information which specifically relate to the circumstances surrounding [redacted name] death on 6 February 1993. This information will include but not be limited to suggestions that [redacted name] may have been murdered. The sections of the council which might hold relevant information are

the Personnel/Human Relations department; the Housing Department or similar; the Social Service's Department; The Chief Executive's Office or equivalent; The Council's Legal Department or similar; The council's press office and or public relations department. This information could have been generated at the time of [redacted name] death or it could have been generated in the light of more recent events. If the answer is yes can you please provide copies of all documentation and correspondence and communications including emails.

3. Does the council hold copies of correspondence and communications from [redacted name] which specifically relate to allegations of sexual abuse and sexual misconduct on council premises. If the answer is yes can you please provide copies of this correspondence and communications. Please do redact the names of persons still alive. Please do not redact the names of any potential victims and or witnesses who are now deceased.

4. Can the council state how many employees were suspended and or disciplined and or sacked as a result of allegations raised by [redacted name]. Can the council state how many employees were disciplined and or suspended and or sacked as a result of any internal inquiry into the type of allegations raised by [redacted name]. Please do not name any individual employee. But in the case of each employee can you please detail whether they were sacked or suspended and or disciplined and or relocated. In the case of each employee can you please provide details of the allegation against them".

5. The Council responded on 31 March 2015. It stated that information within the scope of requests 1-3 had been deleted in accordance with its corporate retention and disposal policies. For request 4, the Council explained that there was no evidence to suggest that the individual had raised any allegations with Council management at the time of his employment.
6. The complainant subsequently asked for an internal review on 10 April 2015. He did not accept that the Council held no information falling within the scope of his request.
7. Following an internal review the Council wrote to the complainant on 19 May 2015. It maintained its position that no information falling within the scope of the request was held.

Scope of the case

8. The complainant contacted the Commissioner on 9 June 2015 to complain about the way his request for information had been handled.

9. Specifically he did not accept the Council's position that it did not hold any information falling within the scope of the request.
10. The Commissioner has had to consider whether the Council holds any recorded information within the scope of the request.

Reasons for decision

11. Section 1(1) of 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 scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
13. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
14. The complainant disputed the Council's claim that no information was held relevant to the request. The Commissioner subsequently returned to the Council and asked it to address a number of questions to determine whether any recorded information was held.
15. The Council explained that it was always unlikely for information relating to the individual's employment with the Council to be held due to the length of time that has elapsed since his death in 1993. The Council confirmed that it was only required to hold information relating to the individual subject to the request for seven years. It further explained it was unable to confirm when the information was destroyed. However, it advised the Commissioner that an electronic HR system was introduced in 2005 and given that this was 12 years after the date the individual no longer worked at the Council, it is probable that this was the most likely latest date of destruction.

16. The Council explained that the personnel files of the individual subject to the request was not held electronically at the point the individual worked at the Council. However, it explained that it has reviewed its existing HR system which includes information on payroll and pensions and no information about the individual was located. This was then crosschecked with the Council's current electronic system Anite, using the name of the individual and no records were returned.
17. The Council confirmed that prior to receiving the request and as part of the work that it is helping the police with, it had already carried out a separate search for information relating to the individual concerned. This search took the form of a page turning review of paper records in the Town Hall and Hambrook House basements (where the Council's housing department was based). This search did not find any information relating to the individual's employment at the Council.
18. The Council further confirmed that a search was carried out on information relating to historic abuse. All paper records and electronic systems where this information would be held was searched. The Council used a number of search terms such as the individual's full name, his first name, his surname and his initials. The search returned no results.
19. In relation to request 4, the Council explained that the individual did not bring any allegations to the attention of managers prior to his death. It further advised that it found no evidence of any such allegations, although the Council was aware that it has been claimed that the individual did make allegations to other members of staff prior to his death. As no allegations appear to have been submitted, the Council explained that there were no records of any investigation having taken place and therefore the information sought in request 4 is not held.
20. The Council appreciated that the fact it holds no information relevant to the request would be frustrating to the complainant. The Council explained that it has spent in excess of 18 hours seeking to identify whether it holds any relevant information and it is confident that after carrying out the searches it has done, it does not hold any of the information that has been requested.

The Commissioner's view

21. After reviewing the submissions made by the Council and on the balance of probabilities, the Commissioner is of the view that the information sought by the request is not held by the Council.
22. He requires the Council to take no steps.

Right of appeal

23. 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

24. 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.
25. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF