

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 October 2019

**Public Authority:** Slough Borough Council  
**Address:** St Martins Place  
51 Bath Rd  
Slough  
SL1 3UF

#### Decision (including any steps ordered)

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1. The complainant requested information relating to the number of families rehoused from a smaller to a larger property.
2. Slough Borough Council (the Council) ultimately provided the complainant with the requested information. The complainant disputed the amount of information provided.
3. The Commissioner has determined that, on the balance of probabilities, the Council did not hold the further information within the scope of the request. She therefore considers that the Council complied with its obligations under section 1(1) of the FOIA.
4. The Commissioner requires no steps to be taken as a result of this decision.

#### Request and response

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5. On 15 March 2019, the complainant wrote to the Council and requested information in the following terms:

*"Number of families with 1 child transferred from a 1 bedroom property into a 2 or more bedroom property since January 2016.*

*Can I have a breakdown of the above number into the following sections:*

*How many months the family was on transfer waiting list*

*Childs age at time of transfer*

*I have attached a spreadsheet for ease".*

6. The Council responded on 16 April 2019. It refused to provide the requested information, citing section 12 (cost of compliance exceeds appropriate limit) of the FOIA.
7. Following an internal review, the Council wrote to the complainant on 13 May 2019, revising its position. The Council provided the complainant with the requested information.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 21 May 2019 to complain about the way her request for information had been handled. She disputed that the information provided by the Council fully answered her request for information.
9. She considered the numbers disclosed were low, given the timeframe of her request. She also disputed the accuracy of some of the information provided – information relating to the age of the child at the time of transfer.
10. During the course of the Commissioner's investigation, the Council revisited its handling of the request. As a result, it provided the complainant with a revised response.
11. The complainant confirmed that she remained dissatisfied with the information provided about the number of families transferred from a smaller to a larger property. Specifically, she considered that the number involved was too low.
12. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part I of the FOIA. The FOIA covers recorded information, whether or not it is accurate.
13. The analysis below considers whether, on the balance of probabilities, the Council held further information within the scope of the request at the time the request was made.

## Reasons for decision

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### *Section 1 general right of access*

14. Section 1 of the 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."*

15. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that may be held, the Commissioner, following the lead of a number of First Tier Tribunal decisions, applies the civil standard of the balance of probabilities.

16. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

17. In this case, the Commissioner has sought to determine whether, on the balance of probabilities, the Council held further information within the scope of the request.

18. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. She will also consider the searches carried out by the public authority, in terms of the extent of the searches, the quality of the searches, their thoroughness and the results the searches yielded. In addition, she will consider any other information or explanation offered by the public authority which is relevant to her determination.

19. During the course of her investigation, the Commissioner asked the Council to describe the searches it carried out for information falling within the scope of the request, and the search terms used. She also asked other questions, as is her usual practice, relating to how the Council established whether or not it held further information within the scope of the requested.

20. In its submission to the Commissioner, the Council explained that a Manager had gone through the data manually, as the Council:

*"... was not able to run a report for it".*

21. It also told the Commissioner that, given the “*extended period of time*” specified in the request:

*“... it has been difficult to manually collate and provide this information”.*

22. In support of its view that it did not hold further information within the scope of the request, the Council told the Commissioner it had:

*“... double checked all the data we hold relating to lettings made to council tenants in the period 1<sup>st</sup> January 2016 to the 31<sup>st</sup> March 2019”.*

23. Noting the criteria specified in the request, the Council confirmed that the information provided to the complainant accurately reflected the information it held that fell within the scope of the request.

#### *The complainant's position*

24. During the course of the Commissioner's investigation, while acknowledging receipt of the Council's revised response, the complainant told the Commissioner:

*“I still believe these figures to be incorrect due to the amount of homes that have been built in the slough area since January 2016”.*

25. She did not, however, provide any further information in support of that view.

#### *The Commissioner's view*

26. The Commissioner recognises that the figures provided to the complainant may seem to be low.
27. However, having considered the Council's response, and on the basis of the evidence provided to her, the Commissioner is satisfied that, on the balance of probabilities, the Council did not hold further information within the scope of the request.
28. The Commissioner therefore considers that the Council complied with its obligations under section 1(1) of the FOIA.

## Right of appeal

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29. 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](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

30. 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.

31. 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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**