

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 8 February 2022

**Public Authority:** Bolton Council  
**Address:** Town Hall  
Victoria Square  
Bolton  
BL1 1RU

#### **Decision (including any steps ordered)**

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1. The complainant requested information from Bolton Council regarding discretionary funds and grants.
2. The council initially stated that it did not hold the requested information however following the Commissioner's intervention it changed its position to provide some information and to withhold some information on the basis of section 12(1)(cost of compliance exceeds appropriate limit).
3. The Commissioners decision is that the council did not provide requested information within the statutory timeframe and has therefore breached section 10(1). It also did not provide a valid refusal notice within the statutory timeframe and has therefore also breached section 17.
4. The Commissioner does not require the council to take any steps.

## Request and response

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5. On 5 February 2021, the complainant wrote to Bolton Council (“the council”) and requested information in the following terms:
  - “1. How much have Bolton Council received from the Government for Discretionary funds.
  2. How much has been issued.
  3. How many businesses have received Grants.
  4. What types of businesses have received the Grant.
  5. How many in each sector have received Grants.
  6. How much of the fund are the Council still holding.
  7. Has any of the Council tax been used to top the Grant fund up.”
6. The council responded on 2 March 2021. It answered question 7, but refused to provide the remainder of the information, stating that the information is not held for the council’s own purposes, it is held on behalf of the Department for Business, Energy, and Industrial Strategy (“the BEIS”). The council advised that the information could be requested from the BEIS and also provided some links to data published by the BEIS.
7. The complainant requested an internal review on 6 April 2021.
8. The council sent the outcome of its internal review on 23 April 2021 in terms of each of the request questions:
  - 1, 2 and 3, the council cited section 21 (information reasonably accessible by other means), stating the information is accessible at [Coronavirus grant funding: local authority payments to small and medium businesses - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/coronavirus-grant-funding-local-authority-payments-to-small-and-medium-businesses).
  - 4, 5 and 6, the council stated that the information is not held.
  - 7, the council stated that the answer is no.
9. On 17 January 2022, during the course of the Commissioner’s investigation, the council updated its response to the request. It provided information in scope of questions 1, 2, 3 and 4. It cited section 12(1) (cost of compliance exceeds appropriate limit) for information in scope of 6, stating that the response would require manual collation.

## Scope of the case

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10. The complainant contacted the Commissioner on 12 March 2021 to complain about the way their request for information had been handled. Initially the complainant disputed the application of section 21 to questions 1-3, and disputed the council's position that no information is held in scope of questions 4 and 5.
11. During the course of the investigation, on 17 January 2022, the council changed its position to provide information in scope of the request questions 1,2, 3 and 4. It refused to provide a response to question 6 on the grounds of section 12(1). The complainant accepted the updated responses, including the refusal notice, however they remained dissatisfied with the way their request had been handled and the delay in providing the information.
12. The scope of the case, therefore, is to determine whether the council made any procedural breaches of the FOIA in its handling of the request.

## Reasons for decision

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### Sections 10 and 17: Time for compliance

13. Section 1(1) of the FOIA states that: "Any person making a request for information to a public 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".
14. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of the receipt".
15. Section 17(1) of the FOIA states that: "A public authority which, in relation to any request for information, is to any extent relying on a claim that any provision of Part II relating to the duty to confirm or deny is relevant to the request or on a claim that information is exempt information must, within the time for complying with section 1(1), give the applicant a notice which –
  - (a) states that fact,
  - (b) specifies the exemption in question, and

(c) states (if that would not otherwise be apparent) why the exemption applies.”

16. The council provided the revised response following the commencement of the Commissioner’s investigation, which was more than 11 months after the request was made.
17. The council failed to provide the requested information and state that it was relying on section 12(1) to withhold some information, within the time for compliance.
18. The council has therefore breached sections 10(1) and 17(1) of the FOIA.
19. The Commissioner does not require any steps as the information and the refusal notice have now been provided.

**Other matters**

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20. The Commissioner considers that the request was poorly handled by the council. It stated that the information was not held and it did not rectify this position in the internal review. The council cited section 21 (information reasonably accessible by other means), and then directed the complainant to websites that did not hold any information in scope of the request.
21. The Commissioner asks the council to take steps to improve both its request and internal review handling procedures in this respect.

## Right of appeal

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22. 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: 0203 936 8963

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)

23. 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.
24. 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 .....**

**Janet Wyles**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**