

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

### **Decision notice**

**Date:** 21 September 2023

**Public Authority:** Oxford City Council

**Address:** Town Hall  
St Aldates  
Oxford  
OX1 1BX

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

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1. The complainant has requested all information relating to the furloughing of employees during the Covid-19 pandemic. Oxford City Council ("the Council") refused the request under section 12(1) (cost of compliance), but provided that information that it considered most relevant to the request under the duty to provide advice and assistance (section 16).
2. The Commissioner's decision is that that Council is entitled to refuse to comply with the request under section 12(1) and has complied with the requirement of section 16.
3. The Commissioner does not require further steps but refers the Council to the points raised in Other matters.

## Request and response

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4. On 11 December 2022, the complainant wrote to the Council and requested information in the following terms:

**"I would be grateful if you would provide copies of all documentation (emails, minutes from meetings, copies of presentations to employees etc) concerning both Oxford City Council and Oxford Direct Services response to the covid-19 pandemic and the furloughing of employees.**

**Please provide documentation starting from 01 March 2020 until no employees were furloughed."**
5. The Council responded on 4 January 2023. It refused to comply with the request under section 12(1) and provided advice and assistance to refine the request to within the appropriate limit.
6. On 5 January 2023, the complainant refined the request:

**"Please provide copies of all emails you hold by the HR Departments of both Oxford City Council and Oxford Direct Services concerning decisions taken to furlough staff including, but not exclusively, operational and financial decisions."**
7. The Council responded to the refined request on 16 January 2023. It disclosed information.
8. On 21 January 2023, the complainant sought an internal review on the basis that further information was held, and specifically **"copies of emails held by the HR Departments of both Oxford City Council and Oxford Direct Services concerning the furlough of staff."**
9. The Council responded further to the refined request on 31 January 2023. It disclosed further information.
10. On 31 January 2023, the complainant repeated that they sought an internal review, on the basis that no **"email communications between the HR Manager, Managing Director and the various departmental managers"** had been disclosed.
11. Following an internal review, the Council wrote to the complainant on 25 May 2023. It acknowledged that its earlier responses were unclear and stated that the refined request would still engage section 12(1). The Council also disclosed further information that it considered to be relevant to the request.

## Scope of the case

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12. The complainant originally contacted the Commissioner on 6 April 2023 to complain about the way their request for information had been handled, and specifically that further information was likely to be held by the Council.
13. During the course of investigation, the Council provided an internal review, and clarified that information had been provided under the duty to provide advice and assistance (section 16), and that it still wished to rely upon section 12(1) to refuse to comply with the request.
14. The Commissioner considers that the scope of his investigation to be whether the Council is entitled to refuse to comply with the request under section 12(1), and whether it has complied with the duty to provide advice and assistance under section 16.
15. Whilst the request refers to both the Council and 'Oxford Direct Services', the Council has advised the Commissioner that it considers, at the time of the request, that it was the relevant public authority, and responsibility for the request falls to the Council only. There is no evidence available to the Commissioner that suggests this is incorrect, and the Commissioner has not considered this aspect further.

## Reasons for decision

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16. This reasoning covers whether the Council is correct to apply section 12(1) (cost of compliance) of FOIA to the request.
17. Under section 12(1), the appropriate limit in costs for the Council as a local public authority is £450, or 18 hours of officer time.
18. The Commissioner has therefore asked the Council to provide its arguments for the application of section 12(1).
19. The Council has explained to the Commissioner that the request seeks a significant volume of information deriving from March 2020 until 2021 and relating to the Covid-19 pandemic and the Council's furloughing of employees (of which there are over 1000). Whilst the refined request specifies that only emails are sought, the Council considers that such information may be stored in a range of locations such as shared folders, email accounts – including archived accounts, and Microsoft Teams Channels.

20. This information will be held across the organisation and not be clearly defined – this is because the subject matter is likely to be referred to frequently, and full compliance with the request would involve the manual review of all records containing the word 'furlough'.
21. The Council argues that attempted compliance with the request has already exceeded the appropriate limit:
  - Identification of which officers would hold relevant information, and discussion with relevant Heads of Service/support staff have taken approximately 2 hours.
  - Review of emails and other records created by Heads of Service have taken approximately 6 hours. To illustrate this, the Council has explained that just one Head of Service had at least 90 meeting folders deriving from 2020.
  - Review of emails stored by Oxford Direct Services, which has so far identified 50 emails and attachments likely to fall within scope of the request, has taken approximately 11 hours.
22. The total time spend by the Council on the request has therefore already exceeded the appropriate limit. Whilst the Council has been able to identify a range of emails that it considers represents the Council's handling of furlough across the organisation (and which the Council has provided to the complainant under the duty to provide advice and assistance), the Council argues that continuing to seek complete compliance with the request would far exceed the appropriate limit.
23. The Commissioner has reviewed the Council's argument and recognises that the request seeks a significant volume of information that cannot be easily extracted without significant officer involvement and review. In particular, the Commissioner notes that the complainant has not limited their request, such as to only higher-level corporate decisions, and instead appears to seek all email correspondence to and from HR staff and other managers across the organisation which relates to furlough throughout the Covid-19 pandemic.
24. The Commissioner has considered the steps the Council has so far undertaken and is satisfied that compliance with the request would exceed the appropriate limit of £450, or 18 hours of staff time.
25. Therefore, the Commissioner's decision is that the Council was correct to apply section 12(1) of FOIA to the request.
26. When section 12(1) is engaged the Commissioner will typically consider whether a public authority can provide appropriate advice and

assistance to the requester, so that they may refine the request to within the appropriate limit.

27. In the circumstances of this case the Commissioner considers that the Council has attempted to provide appropriate advice and assistance to refine the request. Whilst this had resulted in a refined request, the Commissioner is satisfied from the Council's arguments that this refined request will still engage section 12.
28. The Commissioner also notes that a number of documents have been provided to the complainant under the section 16 duty, namely general documents about the furloughing of employees that were identified in the work so far undertaken by the Council on this request. The Commissioner is satisfied that, in the circumstances of this case, the disclosure of this information represents appropriate advice and assistance.
29. Therefore, the Commissioner's decision is that the Council was complied with section 16 of FOIA in handling the request.

### **Other matters**

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30. The Commissioner reminds the Council that when handling requests which seek a significant volume of information, it should give the request sufficient consideration, so that it can determine a clear and appropriate response under FOIA. This is necessary so that the requester fully understands the Council's position. It also ensures that no resources are unnecessarily used, such as if a complaint is subsequently made to the Commissioner.

## **Right of appeal**

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31. 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)

32. 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.
33. 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 .....**

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