

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 21 August 2024

Public Authority: Manchester City Council
Address: Town Hall
Manchester
M60 2LA

Decision (including any steps ordered)

1. The complainant requested information about the number of times Manchester City Council (the Council) had accepted a response from the Department for Work and Pensions (DWP). The Council stated that it did not hold the information requested. During the course of the Commissioner's investigation, the Council acknowledged that it should have sought clarification from the complainant on receipt of the request to determine the scope of the request.
2. The Commissioner's decision is that, in failing to seek clarification of the request under section 1(3) of the FOIA the Council breached section 16(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Comply with section 16 of the FOIA by seeking clarification of the complainant's request of 15 October 2023. Once clarification has been received, the Council must respond to the complainant in accordance with the FOIA.
4. The Council must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 15 October 2023 the complainant wrote to the Council and requested information in the following terms:

“I need the following for a tribunal.

1. How many times has Manchester City Council not accepted the reply from DWP but instead challenged the DWP systems? Please take a look at the attachment 1”.

With their request the complainant provided a copy of an email they had received from the Council which had been sent from the Council to the DWP about their mother’s historic entitlement to DWP benefits.

6. The Council responded on 9 November 2023 and stated that it held “no recorded information for the number of contacts made to the DWP by the Benefits Service to enquire about historic entitlement to DWP benefits”.
7. On 18 December 2023 the complainant requested an internal review of the Council’s handling of the request.
8. The Council provided the outcome of its internal review on 16 January 2024 and upheld its position that it did not hold any recorded information to show the number of contacts made to the DWP about historic entitlement to DWP benefits.

Scope of the case

9. The complainant contacted the Commissioner on 27 February 2024 to complain about the way their request for information had been handled.
10. During the course of the Commissioner’s investigation the Council acknowledged that it should have sought clarification from the complainant about the scope of their request.
11. In light of the above, the scope of the Commissioner’s investigation into this complaint is to determine whether the Council has complied with section 1 and section 16 of the FOIA.

Reasons for decision

Section 1 – general right of access **Section 16 – advice and assistance** **Interpreting and clarifying requests**

12. Section 1(3) of the FOIA states:

“Where a public authority- (a) Reasonably requires further information in order to identify and locate the information requested, and (b) Has informed the applicant of that requirement, the authority is not obliged to comply with subsection (1) unless it is supplied with that further information.”

13. Section 16(1) of the FOIA states:

“It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it”.

14. Therefore, where a request is unclear or ambiguous, the authority’s section 16 duty to provide advice and assistance is triggered and it should revert to the complainant to ask for clarification as per section 1(3) of the FOIA.

15. As covered in the Commissioner’s guidance on interpreting and clarifying requests¹, where a request does not have a single objective reading a public authority is obliged to seek clarification from the requester. It should not proceed with responding to the request until that clarification has been received.

16. The request was framed to seek information about the number of times the Council has “not accepted the reply from DWP but instead challenged the DWP systems”. The Council advised the Commissioner that it is not in a position to ‘challenge’ the DWP over decisions it has made or the information that DWP holds. As such, this information is not held.

17. During the course of the Commissioner’s investigation, the Council confirmed that, based on the history of correspondence between itself and the complainant it interpreted the request as being for “information

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/interpreting-and-clarifying-requests/>

for the number of contacts made to the DWP by the Benefits Service to enquire about historic entitlement to DWP benefit". The Council acknowledged that, based on this interpretation of the request, its responses were incorrect. This is because, in certain circumstances, the Council seeks factual information about DWP benefits received and paid, and applicable dates. The information that the DWP then provides is used to inform the Council's decision about Council Tax Benefit/Council Tax Support Entitlement.

18. The Council accepts that, when it responded to the request it should have explained to the complainant that it does not challenge or refuse to accept information held by the DWP, but it does contact the DWP to seek information or provide information where it is considered necessary for the purpose of benefit administration.
19. Based on the evidence available to him, and in light of the Council's representations about the history of correspondence between itself and the complainant, it is clear to the Commissioner that there was more than one objective reading of the request. As such, the Council was under an obligation under section 16 of the FOIA to seek clarification from the complainant as to the scope of the request.
20. During the course of the Commissioner's investigation, the Council acknowledged that it should have sought clarification from the complainant, at the time the request was received, about the type of information that they were seeking access to. The Council also advised the Commissioner that it had identified information that could be extracted in relation to contacts made to the DWP which could be provided to the complainant if they required it. This comprises:
 - "The number of DWP system checks recorded to enquire about benefit entitlement – document type NHB5/Info5
 - The number of times the Benefits Service has reported change in circumstance that may effect entitlement to DWP benefit – document type NHB7".
21. Whilst the Council has acknowledged that it should have approached the complainant on receipt of the request to seek clarification, it failed to explicitly take this step. As such, the Commissioner finds that the Council failed to comply with the requirements stipulated in section 16(1) of the FOIA. At paragraph 3 above the Council is now required to contact the complainant and seek clarification about their request.

Right of appeal

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

Website: 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.

Joanne Edwards
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Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF