

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

### **Decision notice**

**Date:** 12 December 2024

**Public Authority:** Birmingham City Council  
**Address:** Council House  
Victoria Square  
Birmingham  
B1 1BB

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

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1. The complainant has requested information from Birmingham City Council (the Council) regarding a specific job role and specification.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any further information within scope of the request.
3. However, the Commissioner has recorded procedural breaches of sections 1 and 10 of FOIA as the Council failed to respond to the complainant's request within the statutory time limits.
4. The Commissioner does not require the Council to take any steps as a result of this decision.

## Request and response

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5. On 23 February 2024, the complainant wrote in the following terms:

"The information required - job role spec/description including duties and key responsibilities and all aspects pertaining to the hiring process (advert, shortlisting, interview procedures) in relation to the most recent post of Regeneration Project Director - Ladywood."

6. After several chasers and a request for an internal review into why there had been a delay, the Council responded on 24 April 2024. It included a job description and stated:

"The postholder was procured via Hayes and appointed in line with Birmingham City Council's Recruitment and Selection process."

7. The complainant requested an internal review on 25 April 2024 setting out their dissatisfaction with the delays in the Council's response and reasons they believed the Council should hold the documentation.
8. The Council responded on 23 May 2024 explaining the reasons why it did not hold the information requested. It failed to deal with the complainant's dissatisfaction with the delays to the original response and its obligations under FOIA.

## Reasons for decision

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9. This reasoning covers whether the Council is correct when it states that it does not hold information within the scope of the request.

## The complainant's position

10. The complainant considers the Council to hold information within the scope of their request. They said that:

"This is the job spec for (redacted) – Head of Land, Regeneration and Partnerships since July 2023 and is a permanent post. The information I requested clearly was for the Regeneration Project Director – Ladywood which was a fixed term position of 18 months and from what I gather funded from the Delivery Plan Capacity Build Transformation Budget – up to a sum of £750,000 covering estimated spend for 2023/24 and 2024/25. Therefore, this post was funded from the public purse. (redacted) held this position from October 2023 until February 2024. I am very familiar with procuring posts through Hays

recruitment agency. Therefore, I would expect, as requested, specific information pertaining to the hiring process (advert, shortlisting, interview procedures).”

### **The Council’s position**

11. In its internal review the Council maintained its position that it does not hold any of the documentation requested. It explained to the Commissioner that it had provided a copy of the job description for Head of Land, Regeneration & Partnerships, and advised that Hays would handle the recruitment. The Council maintained that the job description provided for recruitment of the post was actually for Head of Land, Regeneration & Partnerships. The Council used the criteria for the post of the Head of Land, Regeneration & Partnerships , and therefore do not hold a job description for a Regeneration Project Director.
12. The Council further explained that duties of the Ladywood Regeneration Project are duties that fall within the job description provided, and at the time of responding to the request these duties were being carried out by the Head of Land, Regeneration and Partnerships, and stated “It was not a new post; it is a current post holder who has taken on the Ladywood Regeneration Project.”
13. The Council were unable to provide the advertisement and shortlisting details, as it confirmed that the recruitment for this post was outsourced to Hays the Council’s recruitment contractor and therefore, not held by the Council. However, it did confirm that the Council had responsibility for the interview and selection of the candidate for the position.
14. During the Commissioner’s investigation, as the Council had outsourced the recruitment process to Hays, it contacted them to establish if any information was held on behalf of the Council and in scope of the request, it confirmed that there was not and reiterated its position.

### **The Commissioner’s position**

15. The Commissioner notes that the complainant considers the Council should hold information within the scope of the request as they believe the information is relevant to the Council’s work and functions.
16. However, the Commissioner is satisfied that the Council has provided adequate explanation for why it does not hold information in scope of the request, that being the Council outsourced the recruitment to Hays who were responsible for the sourcing, hiring and contract fulfilment obligations. The Council’s involvement was purely with regard to the interview and selection process.

17. The Commissioner is not required to prove beyond doubt that the Council do or do not hold information but can only decide based on the civil standard of the “balance of probabilities” that information within the scope of the request is more likely held than not.
18. The Commissioner’s decision is that on the balance of probabilities, the Council does not hold any further information within scope of the request.

### **Procedural matters**

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19. Section 1(1) of FOIA says that an individual who asks for information from a public authority is entitled to (a) be informed whether the authority holds the information and, if so, (b) to have that information communicated to them.
20. Section 10(1) of the FOIA states that a public authority shall respond to information requests promptly and, in any event, by no later than 20 working days from receipt.
21. The Commissioner notes that the time taken for the Council to respond to the request for information exceeded 20 working days. The Council failed to note this breach in its internal review response. The Commissioner has therefore recorded breaches of sections 1 and 10 of FOIA against the Council as a result.
22. The Commissioner is concerned about the Councils record management processes with regard to this case, and in relation to what information is relevant to hold in such circumstances. Although the Council had outsourced the recruitment process, it was responsible for the interview and selection process, therefore, it would be reasonable to expect the Council would hold further detail on this aspect. However, in this case, the Council’s own records management fell short, in part due to its use of a previous job description and criteria for the new role/position.

## **Right of appeal**

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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: 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)

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.

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