

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 December 2024

Public Authority: Flintshire County Council

Address: County Hall
Mold
Flintshire
CH7 6NB

Decision (including any steps ordered)

1. The complainant made a request for information to Flintshire County Council ("the Council") for information relating to certain policies.
2. The Commissioner considers that the Council was correct to confirm that it does not hold the requested information.
3. The Commissioner requires no steps to be taken.

Request and response

4. The complainant made the following information request to the Council on 28 February 2024 for the following information:-

"Please would you or the appropriate team provide all of FCC policies linked to the targeted support team, regarding assessments of disabled children, their policy regarding child protection, section 17, part 3's, Part 4's including the annual reviews. Either that please advise where I can download these policy's as they do not appear to be on FCC website."
5. The Council responded on 22 March 2024 stating that it does not hold such policies and uses the Social Services and Well-Being (Wales) Act 2024 in place of any such policies for statutory work. The Council provided the complainant with a link to the legislation.

6. The complainant asked for an internal review and the Council provided the same response as above on 26 March 2024.
7. The complainant considered that the Council should hold further information within the scope of their request so has asked the Commissioner to investigate.

Reasons for decision

8. Section 1(1) FOIA provides 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.”
9. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
10. The Council has explained to the Commissioner that, when the Social Services and Wellbeing (Wales) Act 2014 (SSWB14) was introduced, this became the standard used for work in this area. No policy was drafted on this piece of legislation, as it provides a complete roadmap for practitioners to follow to comply with their statutory obligations.
11. The Council further states that when the request was received the portfolio FOI officer searched all policies within social services. They also made contact with the planning team who keep all policies and asked them to see if there was a policy kept by them that was relevant. There was not. Finally, the relevant team who work in this area were contacted to ask if they worked to a policy. They confirmed there was no policy as they followed the legislation.
12. The Council has clarified that the Social Services and Well-Being (Wales) Act 2024 (SSWB14) sets out various statutory requirements that social services must comply with. It is a very important piece of legislation which sets out so well the processes required that a policy implementing it would simply state ‘follow the legislation’. As such, the legislation itself is what is followed. As long as the statutory requirements of the SSWB14 are followed, the Council is complying with its statutory obligations.

13. The Council has provided a copy of the SSWB14 to the complainant to assist them and has also clarified its relevant duties under the legislation which are as follows:-

- Assessments of children with disability – Under the SSWB14 we have a duty to assess under Part 3 of the Act.
- Policies re Child Protection – we use the Wales Safeguarding procedures. These can be found here: <https://www.safeguarding.wales/en/chi-i/>
- Section 17 – This is within the Children Act – This is no longer used in Wales
- Part 3 – Part 3 of the SSWB14 places a duty on the LA to assess the individuals need for Care and Support
- Part 4 – Part 4 of the SSWB14, this part of the Act is around care planning, creation of the care and support plan, reviewing the plan, financial assistance, Direct Payments and closures.
- Part 4 Reviews – Reviews to be held no more than 6 monthly intervals for children.

The Commissioner's view

14. Before explaining his decision, the Commissioner finds it necessary to address the parts of the complaint concerning requests for clarification or comments which go beyond the Commissioner's remit.
15. FOIA can only look at information that is held by a public authority and there is no requirement for further information to be created to respond to a request for information. A public authority cannot provide information that it does not hold.
16. The Commissioner, in reaching his decision in this case, has taken account of the views put forward by the complainant. He has also considered the Council's explanation provided in response to the Commissioner's enquiries and actions taken by the Council to check whether it holds the requested information.
17. The Commissioner acknowledges the complainant's dissatisfaction with the responses from the Council, and that they strongly consider that the information they requested should be held. However, while the complainant may believe information must be held, the Commissioner has found no evidence which would indicate that the Council holds the requested information or has held it at the time of the request.

18. The Commissioner is satisfied that the Council was consistent in its responses to the complainant and in its submissions to the Commissioner.

19. Based on the above considerations, the Commissioner finds that, on the balance of probabilities, the Council does not hold any further information beyond that already disclosed to the complainant and therefore it complied with the requirement of section 1 of FOIA.

Right of appeal

20. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. 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.
22. 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.....

Deirdre Collins
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF