

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 24 December 2024

Public Authority: London Borough of Havering
Address: Town Hall
Main Road
Romford
RM1 3BB

Decision (including any steps ordered)

1. The complainant submitted a request to London Borough of Havering (the Council) for information relating to the grade evaluation scores for a named post under the GLPC valuation scheme.
2. The Commissioner's decision is that the Council was not entitled to rely on section 43(2) of FOIA to withhold the requested information. The Council also breached section 1(1) and 10(1) of FOIA by failing to respond to the request within the statutory timeframe of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - Disclose the withheld information (with any personal data suitably redacted in accordance with his [guidance](#)).
4. The public authority must take this step 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 23 February 2024, the complainant wrote to the Council and requested information in the following terms:

“The most recent Grade evaluation scores for the Council Tax & recovery officer role. I would like to be supplied the scores obtained against each of the criteria set out under the GLPC job valuation scheme.”
6. A response was provided on 17 May 2024, in which the Council refused to disclose information in scope of the request under section 43(2) of FOIA.
7. The complainant submitted an internal review request on 24 May 2024 setting out their arguments for disclosure. The Council provided its internal review response on 26 June 2024, in which it maintained its reliance on section 43(2) of FOIA and argued that disclosure of the information may reveal the salary of other staff members and therefore, how much each staff member was earning.

Reasons for decision

Section 43(2)

8. Section 43(2) of FOIA states that information is exempt if its disclosure would, or would likely to, prejudice the commercial interests of any person, including the public authority holding it.
9. The Commissioner’s guidance¹ states that there are many circumstances in which a public authority might hold information with the potential to prejudice commercial interests.
10. In this case the withheld information consists of the grade scores for the evaluation of a specific post, and the Council considers that disclosure of this information would prejudice the commercial interests of the Council.
11. In highlighting harm, the Council explained that disclosure: “could result in each role outcome being questioned and subject to a moderation process.” This process would involve an HR Consultant, a Senior HR

¹ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/section-43-commercial-interests/>

Consultant, the relevant Manager, the Assistant Director of HR & OD and the Director of Legal.

12. The Council provided a breakdown of the anticipated moderation exercise and costs involved as well as the potential impact of the evaluation with regard to increases in the overall expenditure for roles. It anticipates each moderation exercise would cost £456.67 and with 2371 directly employed staff, this could cost the Council £1.082 million in management time. In addition, the associated uplift would cost the Council over £2.3 million a year.
13. The Council explained that at this time, finances within the Council, along with other parts of local and central government, are particularly pressurised, and adding further costs to budgets could result in the loss of jobs across the Council.
14. The complainant argues that the job evaluation scheme involves measuring each job against the Greater London Provincial Council (GLPC) rules and checklist, and that they fail to see how provision of the scoring would be deemed commercially sensitive given the GLPC rules are available in the public domain and used for benchmarking.

The Commissioner's decision

15. The Commissioner has considered the Council's arguments and specifically the claimed prejudice.
16. Having done so, the Commissioner is not convinced that disclosure of the requested information would cause the claimed prejudice. Whilst he does acknowledge that disclosing the information has the potential to result in challenge, he does not consider that the Council has sufficiently evidenced that there would be a causal effect between disclosure and its ability to compete competitively and fulfil its purpose. The Commissioner does not consider it credible that release of the information would, or even could, result in the challenge specified and cost the Council over three million pounds.
17. Furthermore, the Commissioner would consider that recruitment, within the Council be subject to significant and expected transparency with regards to the job evaluation scheme and scores.

18. In decision notice IC-214678-H3K3², the public authority sought to rely on section 43(2) on the basis that disclosure would likely prejudice the commercial interest of a third party. As this decision has a similar request and context to the one of this notice, it is noted that the Commissioner ordered disclosure on the basis that the public authority had not provided compelling arguments that disclosure would cause prejudice to its commercial interests.
19. Having considered the above, the Commissioner has concluded that the section 43(2) is not engaged. Consequently, the Commissioner does not need to consider the public interest test.

Procedural matters

20. Section 10 of the FOIA requires a public authority to respond to a request for information within 20 working days of receiving it.
21. The Council did not confirm that it held information within the statutory timeframe of 20 working days and therefore breached section 1(1)(a) and 10(1) of FOIA.

² <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4025390/ic-214678-h3k3.pdf>

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.

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