

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

### **Decision notice**

**Date:** 19 May 2025

**Public Authority:** Cheshire East Council  
**Address:** Delamere House  
Delamere Street  
Crewe  
CW1 2LL

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

---

1. The complainant requested information about school admissions.
2. Cheshire East Council (the council) provided the information it held to each part of the request. Following clarification at the internal review stage, the council amended its response to part 1 of the request stating that it did not hold the information.
3. During the Commissioner's investigation, the council determined it does hold the information to part 1 of the request. The Commissioner therefore finds that the council has breached section 1 of the FOIA as it did not confirm to the complainant that the information is held.
4. The Commissioner requires the council to issue a fresh response to the complainant to part 1 of the request in accordance with the FOIA, either providing the information or issuing a valid refusal notice.
5. 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

---

6. On 2 July 2025 the complainant made the following information request to the council:

"I am writing to request information under the Freedom of Information Act 2000 regarding the admissions of Year 7 students at Wilmslow High School for the upcoming academic year in September.

Specifically, could you please provide the following information:

1. The number of children joining Year 7 at Wilmslow High School in September who meet the following criteria:
    - Not classified as "cared for children"
    - Do not have an Educational Health Care Plan (EHCP)
    - Do not have a sibling currently attending Wilmslow High School
    - Are not attending a feeder school for Wilmslow High School
    - Live further than 1.815 miles away from the school
  2. The number of children who have been allocated a place at Wilmslow High School but have notified Cheshire East Council that they will not be attending the school, yet remain on the school's list until September.
  3. The number of children who successfully appealed the decision not to attend Wilmslow High School and were subsequently granted a place.
  4. Of those children who successfully appealed the decision, how many had already accepted a place at another school prior to the appeals hearing.
  5. How many children were unsuccessful in their appeal and had accepted a place at another school prior to appeal.
  6. How many children were unsuccessful in their appeal to attend the school."
7. The council responded on 22 July 2024 providing information it held.
8. The complainant requested an internal review on 30 July 2024 dissatisfied with the response to part 1 of the request clarifying that

they require the total number of children who met all of the listed criteria, rather than a breakdown of how many children met each of the listed criteria.

9. The complainant contacted the Commissioner on 4 December 2024 to complain that they had not received a response to the internal review and that they have not received the requested information to part 1 of their request.
10. Following contact from the Commissioner, the council provided its internal review to the complainant on 13 January 2025 stating that, from the clarification provided, the information to part 1 of the request is not held.

### **Scope of the case**

---

11. The complainant contacted the Commissioner further on 15 January 2025 disputing the council's position that the information to part 1 of the request is not held.
12. The scope of the case is to determine whether the council holds the information to part 1 of the request, which was clarified in the complainant's internal review of 30 July 2025.

### **Reasons for decision**

---

#### **Section 1 of the FOIA – Information held/ not held**

13. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to them.
14. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
15. During the Commissioner's investigation, the council advised the Commissioner that on review of the request, it does hold information falling within the scope of part 1 of the request.

16. On this basis, as the information is held, the Commissioner finds that the council has breached section 1 of the FOIA.
17. The Commissioner requires the council to issue a fresh response to part 1 of the complainant's request, as clarified in the internal review request, either providing the information or issuing a valid refusal notice.

### **Other matters**

---

18. The council has indicated to the Commissioner, in its submissions, that the held information to part 1 of the request may be too costly to extract in terms of the resources required to do so.
19. When the council issues its revised response, if it does issue a refusal notice based on costs, then it should ensure it details sufficiently how it arrived at those costings and provide any appropriate advice and assistance, under section 16 of the FOIA, to the complainant as to how the request could be refined, if applicable.

## 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: 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)

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.

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