

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

### **Decision notice**

**Date:** 12 March 2019

**Public Authority:** Calderdale Council  
**Address:** Town Hall  
Crossley Street  
Halifax  
West Yorkshire  
HX1 1UJ

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

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1. The complainant has requested all communications about child sexual abuse that have passed between Calderdale Council ("the Council") and a range of other public authorities during the past three years, but with the stipulation that he does not seek information relating to specific cases. The Council responded that no information was held besides that contained within individual social care files, and which would therefore fall outside the parameters of the request.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold information that would fall within the specific parameters of the request.
3. The Commissioner does not require the public authority to take any steps.

## Request and response

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4. On 1 May 2018, the complainant wrote to the Council and requested information in the following terms:

*The information request (emails, faxes, letters etc) that I am making referencing to will be anything about the CSE and grooming gangs over the last 10 years in Halifax (Calderdale) between Calderdale Council and the Home Office, Calderdale Council and the local social services, Calderdale Council and West Yorkshire Police, Calderdale Council and local public schools, Calderdale Council and Barnado's (charity) also the NSPCC, finally - Calderdale Council and Holly Lynch MP plus members of parliament before 2015.*

5. The Council responded on 29 May 2018. It stated that it not hold any information outside individual cases, and that any information held in respect of individual cases would be exempt from disclosure under section 40(2). The Council also referred the complainant to a Serious Case Review undertaken by the Calderdale Safeguarding Children Board ("the CSCB").

6. On 24 July 2018, the complainant submitted a revised request to the Council in the following terms:

*The information request (emails, faxes, letters etc) that I am making referencing to will be anything about the CSE and grooming gangs over the last 3 years in Halifax (Calderdale) between Calderdale Council and the Home Office, Calderdale Council and Calderdale's local social services, Calderdale Council and West Yorkshire Police, Calderdale Council and Halifax's local public schools.*

*NB. This request does not request information referring to open/pending cases of CSE, just communications of staff between the parties stated above. Despite this understand if those communications I am requesting are subject to redactions.*

7. The Council responded on 25 July 2018. It stated that its response was the same as that of 29 May 2018. It also advised that any wider information would be held on behalf of the CSCB and was not therefore held by the Council for the purposes of the FOIA.
8. Following an internal review the Council wrote to the complainant on 31 July 2018. It maintained its position.

## Scope of the case

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9. The complainant contacted the Commissioner on 13 August 2018 to complain about the way his request for information had been handled.
10. Upon receipt of the complaint, it was assumed that the scope of the case was whether the Council was entitled to withhold the contents of individual social care cases under section 40(2).
11. However, on review of the circumstances of the case, and specifically the complainant stipulating that information relating to individual cases was not sought, the Commissioner considers it appropriate to consider the Council's position under section 1(1).
12. In addition to the determination under section 1, the Commissioner also refers the parties to the points raised in 'Other matters'.

## Reasons for decision

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### Section 1(1) – General right of access to information

13. Section 1(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 relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.
14. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.

#### What information has been requested?

15. The complainant has requested any communications that have taken place over the past three years between the Council and a range of other public authorities on child sexual abuse ("CSE") and grooming gangs.
16. The Commissioner understands; from the correspondence that has passed between the complainant and the Council; that the complainant does not wish to request any information held as part of individual social care cases, but instead, expects there to be broader "*communications of staff between the parties stated*" (quoted from the complainant's request of 24 July 2018).

17. Having reviewed the circumstances of this case, the Commissioner understands that the complainant has limited their request to that information that would not be case specific. The Commissioner notes that this is because the complainant recognises that information relating to individual cases is likely to represent personal data under the Data Protection Act 2018, and therefore fall under the exemption provided by section 40(2) of the FOIA.

#### The Council's position

18. The Commissioner has asked the Council to explain what steps it has undertaken to search for any relevant held information.
19. The Council has informed the Commissioner that, upon receipt of the request, it was referred to the Head of Service for the Children's and Young Peoples service.
20. In response to the request, the Head of Service arranged for the following steps to be taken:
  - The service's networked computer drives were searched for any guidance or correspondence that had passed between the Council and the other public authorities listed in the request (i.e. the Home Office, local social services, West Yorkshire Police, and local public schools). No results were returned.
  - Individual staff email accounts were searched using the terms 'CSE' and 'Grooming gang', but all emails retrieved were found to be in the context of individual cases. An example of such emails were those disseminating safeguarding meeting minutes about individual cases (an example of which has been provided to the Commissioner, who notes that it relates to individual cases).
  - The Director of the service was consulted about whether he held, or was aware of, any general correspondence between the Council and the other public authorities. That officer advised that he was not aware of any relevant information that may be held.
  - The paper library of historic guidance documents were manually reviewed, but no relevant information was identified.
21. The Head of Service has also advised that guidance information is not held locally with the service. Instead, officers refer to the following current public guidance:
  - Social care responsibilities for CSE, published by the Council at: [http://calderdalechildcare.proceduresonline.com/chapters/p\\_ch\\_sex\\_exploit\\_op\\_gp.html?zoom\\_highlight=CSE#ch\\_soc\\_care](http://calderdalechildcare.proceduresonline.com/chapters/p_ch_sex_exploit_op_gp.html?zoom_highlight=CSE#ch_soc_care)

- CSE practice guidance, published by the CSCB at:  
<http://calderdale-safeguarding.co.uk/professionals/safeguarding-children/child-sexual-exploitation/>
  - Wider CSE guidance, published by the West Yorkshire Consortium of Safeguarding Children Bodies at:  
[http://westyorkscb.proceduresonline.com/chapters/p\\_sg\\_ch\\_and\\_yp.html?zoom\\_highlight=CSE](http://westyorkscb.proceduresonline.com/chapters/p_sg_ch_and_yp.html?zoom_highlight=CSE)
22. The Council has clarified that, in respect of individual cases that will have met the criteria for a Serious Case Review under the 'Working Together' national procedures, this is a separate process conducted by the CSCB. The CSCB will receive reports from all agencies involved with the child; however these reports are held by the CSCB and not the Council.
23. The Council has explained that it provides the administrative support required by the CSCB, and as such, physically holds information on behalf of the CSCB. However, this information is not held (or referred to) by the Council for its own functions. All information required by the Children's and Young Peoples service is accessed through the public CSCB website.

#### The Commissioner's conclusion

24. The Commissioner understands that the request has been made in the expectation that wider, and potentially more abstract, correspondence (that is not case specific) has passed between the Council and other public authorities, particularly in relation to a recent Serious Case Review.
25. The complainant has clarified to the Commissioner that, in response to a similar request, another public authority has released a significant amount of held information, and that a similar response was expected in relation to this case.
26. However, the Council has undertaken logical searches to identify whether such information is held, and has provided the Commissioner with a clear explanation of how it accesses guidance and other resources in relation to CSE cases.
27. The Commissioner also notes that, in relation to the Serious Case Review referenced by the complainant, this was undertaken by the CSCB, which is an entity separate to the Council. Whilst the Council has confirmed that it physically holds information on behalf of the CSCB (in order for it to provide administrative support), the Commissioner understands that this information is not used or referred to for the Council's own purposes. The Commissioner is mindful that, under the

Children Act 2004, the duty to undertake Serious Case Reviews is specifically held by local safeguarding children boards, and in this statutory context it is reasonable for the Commissioner to accept the Council's position as being correct.

28. Having considered these factors, the Commissioner has concluded that on the balance of probabilities, the Council does not hold any relevant information.

### **Other matters**

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29. In the circumstances of this case, the Commissioner has not considered the Council's apparent application of section 40(2). This is because the Council has cited this exemption only in relation to the contents of individual case files; however, the Commissioner understands that the complainant has specifically removed such information from the parameters of the request, on the understanding that it will represent the personal data of third parties. Whilst the complainant remains able to request information relating to individual cases, the Commissioner notes, as regulator of the Data Protection Act 2018, that it is highly likely that such information will represent third party personal data, and therefore fall under the exemption provided by section 40(2) of the FOIA.
30. The Commissioner emphasises, for the benefit of the complainant, that the CSCB is a separate entity to the Council. Whilst the complainant may choose to contact the CSCB, the Commissioner notes, from similar cases which have been submitted to her, that the CSCB is unlikely to be a public authority for the purposes of the FOIA.

## Right of appeal

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31. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. 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 .....**

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