

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 20 April 2021

Public Authority: Royal Borough of Greenwich
Address: The Woolwich Centre
35 Wellington Street
London
SE18 6HQ

Decision (including any steps ordered)

1. The complainant requested from the Royal Borough of Greenwich (the Royal Borough) information related to destinations for leavers from the schools within the borough. The Royal Borough stated that it did not hold information falling within the scope of the request and advised the complainant to contact the Department for Education (DfE) or individual schools.
2. The Commissioner's decision is that, on the balance of probabilities, the Royal Borough was correct when it said that it did not hold information within the scope of the request.
3. The Commissioner requires no steps to be taken as a result of this decision.

Request and response

4. On 13 July 2020 the complainant wrote to the Royal Borough and requested information in the following terms:

"School Destinations from 2019 or nearest available figures by %

- 1. From GCSE or GCSE equivalent level into Work, Further Education, Apprenticeship/Training, Other (please describe) & Unemployment: by gender, ethnic group/background and social class (all classes including white working class male);*
- 2. From Advanced level or equivalent into Work, Higher Education, Apprenticeship/Training, Other (please describe) & Unemployment: by gender, ethnic group/background and social class (all classes including white working class male) "*
5. The Royal Borough responded on 14 July 2020. It stated that it did not hold information within the scope of the request and stated that the information requested may be held by individual schools. It also advised the complainant that the DfE publishes reports on school destinations and provided the complainant with a link that leads to the latest report published.
6. The complainant wrote back to the Royal Borough on 14 July 2020, expressing his dissatisfaction with the response received and asked the Royal Borough to conduct an internal review on the handling of his information request.
7. The Royal Borough provided the complainant with the outcome of its internal review on 27 July 2020. The Royal Borough reiterated that it did not hold the information requested and it stated that there is no statutory obligation to collect and record this type of information.

Scope of the case

8. The complainant contacted the Commissioner on 5 August 2020 to complain about the way his request for information had been handled. He stated that he disagreed with the Royal Borough's response because he believed that it should have held the information requested.
9. The following analysis will determine whether the Royal Borough was correct when it stated that it did not hold information within scope of the complainant's information request.

Reasons for decision

Section 1 – Determining whether further information is held

10. Section 1 of the FOIA states 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."*

11. In this case, the complainant disputes the Royal Borough's position that it did not hold the information sought in his information request of 13 July 2020.
12. In cases where a dispute arises over the extent of the recorded information held by a public authority at the time of a request, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities. In essence, the Commissioner will determine whether it is likely, or unlikely, that the public authority held information relevant to the complainant's request.
13. The Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the Royal Borough to check whether the information is held and any other reasons offered by the Royal Borough to explain why the information was not held. In addition, she will consider any reason why it is inherently likely or unlikely that the requested information is not held.
14. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of proof of the balance of probabilities.
15. As part of her investigation, the Commissioner wrote to the Royal Borough requesting a submission in respect of a number of questions relating to the allegations raised by the complainant. The Commissioner's questions were focused on the Royal Borough's endeavours in searching for the requested information, and whether any information falling within the scope of the requests was deleted or destroyed.
16. The Royal Borough stated that when the information request was submitted, its manager responsible for collating statistical returns related to education data confirmed that the requested data was not held. The Royal Borough added that in their attempt to help the complainant it provided a link to the DfE webpage that contains information relevant to the request.

17. Further, the Royal Borough explained that following the Commissioner's investigation letter, its relevant manager was contacted again and the response remained as previously communicated, that is the Royal Borough in the capacity of local education authority (LEA) does not hold the data that the complainant requested. It added that *"Schools do have a responsibility to pass this information on but Royal Greenwich like many other LAs are not the recipients of this data."* The relevant manager clarified that the Council is not involved in the provision of this information to the DfE. The Royal Borough confirmed that it is not a conduit for the transmission of this category of data and it is not held in recorded form.
18. The Royal Borough stated that if the requested information was held, it would be recorded in electronic version, in the form of an Excel spreadsheet and it would be saved in folders and would be managed by its Children's Services Performance and Analysis Service. It added that during the course of this investigation this department's files were searched and no relevant information was located.
19. The Royal Borough confirmed that, as no relevant information was ever held, it had not been deleted or destroyed.
20. In relation to the Commissioner's questions about the Royal Borough's retention policy regarding the information requested, it stated that its Children's Services retention policy does not make any reference about this type of information.

The Commissioner's Conclusion

21. The Commissioner has examined the submissions of both parties. She has considered the searches performed by the Royal Borough and the Royal Borough's explanations as to why the information requested could not be located.
22. The Commissioner's role is to make a decision based on whether on the balance of probabilities relevant recorded information was held by the Royal Borough.
23. The Commissioner appreciates that the complainant believes that the Royal Borough should collect the information he requested and that it should be its responsibility to pass on that information to the DfE. However, the Commissioner's remit does not cover whether information *should* be held, only whether it is or not.
24. In the absence of evidence to the contrary, the Commissioner is satisfied that the Royal Borough has provided plausible and convincing explanations that it has carried out the necessary steps to conclude whether it held the information requested by the complainant.

25. Therefore, the Commissioner concludes that, on the balance of probabilities, the Royal Borough did not hold the requested information and it has, therefore, complied with the requirements of section 1 of FOIA in this case.

Right of appeal

26. 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

27. 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.
28. 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

Ben Tomes
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SK9 5AF