

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

### **Decision notice**

**Date:** 15 July 2022

**Public Authority:** Westminster City Council  
**Address:** Westminster City Hall  
64 Victoria Street  
London  
SW1E 6QP

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

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1. The complainant requested from Westminster City Council ("the Council") information relating to the funding arrangements for a building repair project. The Council disclosed information in response. The complainant maintained that the Council had failed to fulfil his requests for information.
2. The Commissioner's decision is that the Council has disclosed all held information.
3. The Commissioner does not require the Council to take any steps.

### **Request and response**

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4. On 21 December 2020, the complainant wrote to the Council and requested information in the following terms:

**FREEDOM OF INFORMATION ACT. Under the above Act would you please provide the following information;-**

**The Major Works Project x108 was originally planned to begin in Autumn 2017.**

- a) What was spent by Westminster City Council on preparations, both inhouse and contracted out prior to August 2017 by way of staff time, meetings, administration, consultant fees , postage /communications and all other preparations including 'tendering'..**
- b) What was spent by WCC on Project x108 during the year from 2017 to 2018.. with regard to staff time, meetings, administration consultant fees, postage/communication and all other preparations including tendering.**
- c) What was spent by WCC on Project x108 during the year from 2018 to 2019 with regard to staff time, meetings, administration, consultant fees, postage/communications and all other preparations including tendering.**
- d) What was spent by WCC on Project x108 during the year from 2019 to 2020 with regard to staff time, meetings, administration, consultant fees, postage/communications and all other preparations including tendering.**
- e) Who will ?, How will? and When will? these costs be met.**
5. The Council responded on 19 January 2021. It disclosed some held information.
6. Following an internal review, the Council wrote to the complainant on 3 March 2021. It disclosed further information in respect of parts a) to d) and provided URLs to public information in respect of part e).

### **Scope of the case**

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7. The complainant contacted the Commissioner to complain about the way their request for information had been handled, and specifically that the Council held further information besides that disclosed.
8. The scope of this case and of the following analysis is whether the Council holds further information.

## Reasons for decision

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

9. Section 1(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.**

10. Section 1(1) requires that any person making a request for information to a public authority must 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.
11. In scenarios where there is some dispute between the amount of information located 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 (Information Rights) decisions, applies the civil standard of the balance of probabilities.
12. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

### The Commissioner's investigation

#### *Parts a) to d) of the request*

13. Parts a) to d) of the request seek specific costs. The Commissioner therefore asked the Council to specify what steps it had taken to retrieve this information, and why it considers this information to be that sought by the request.
14. The Council responded that the information sought by parts a) to d) is held electronically in a financial management system that the Council uses to manage costs, including purchase orders raised, invoices, and staff time and cost. To provide the information sought by parts a) to d) the Council has searched this system by using the relevant 'scheme' number to retrieve the recorded costs, and invoice documents, before calculating the totals sought.

15. The Commissioner considers that the Council has provided a clear explanation of the steps it has taken to retrieve that information sought by parts a) to d) of the request. There is no evidence, either provided by the complainant, or otherwise available to the Commissioner, to suggest that the Council has failed to provide that information requested by parts a) to d).

*Part e) of the request*

16. Part e) of the request seeks an explanation of how and when the Council will meet specific costs. The Commissioner therefore asked the Council to explain what information it had provided, and why it considers this information to be that sought by the request.
17. The Council responded that part e) is a question, rather than a clear request for specific recorded information. It therefore directed the complainant to information that is available on the Council's website, and further, provided advice and assistance under section 16 (Duty to provide advice and assistance) of the FOIA.
18. The Commissioner considers that the Council has provided a clear justification for its response to part e) of the request, which takes the form of a question. In response to this question, the Council directed the complainant to information already publicly accessible on the Council's website that it considered would answer the question, and additionally, provided advice and assistance about the substantive matter that the question relates to. There is no evidence, either provided by the complainant, or otherwise available to the Commissioner, to suggest that the Council has failed to fulfil part e).
19. The Commissioner's conclusion is, therefore, that on the balance of probabilities the Council has identified and disclosed to the complainant all the information it holds that is within scope of the complainant's request.

## **Other matters**

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20. The Commissioner emphasises, for the benefit of the complainant, that the FOIA only relates to the provision of recorded information. When a request is phrased as a question, a public authority is not required to create an 'answer' to satisfy it.

21. The Commissioner also refers the Council to his guidance on section 21 of the FOIA<sup>1</sup>, and reminds it that when directing a requestor to information already publicly accessible, it should issue a refusal notice citing section 21 (Information available to the applicant by other means). The Commissioner has previously alerted the Council to this aspect of the FOIA in decision notice IC-39932-V5J8.

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<sup>1</sup> <https://ico.org.uk/media/for-organisations/documents/1203/information-reasonably-accessible-to-the-applicant-by-other-means-sec21.pdf>

## Right of appeal

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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](mailto:grc@justice.gov.uk)

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

**Signed .....**

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