

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 January 2025

Public Authority: Leicester City Council
Address: City Hall
115 Charles Street
Leicester
LE1 1FZ

Decision (including any steps ordered)

1. The complainant has requested information regarding the provision of services and support for individuals with mental health conditions in relation to the Care, Health, and Wellbeing Strategy 2022-2027 "Healthy Minds". Leicester City Council (the Council) provided some information and guidance in scope of the request and cited sections 21 and 12 of FOIA to withhold the remaining information.
2. The Commissioner's decision is that the Council was entitled to rely on sections 21 and 12 of FOIA for information in scope of the request.
3. The Commissioner does not require any steps to be taken as a result of this decision.

Request and response

4. On 13 June 2024, the complainant requested information from the Council. The full text of the request is contained in Annex A.
5. On 3 July 2024 the Council responded by answering each question and point in turn and included links to relevant data and citing section 21 of FOIA.
6. The complainant requested an internal review on 10 July 2024 as they believed the response was insufficient and did not address the broader scope of the request and they required specific details to address the points made. They also requested further detail regarding clarification for information not held. The internal review request broadened the scope of the original request resulting in the Council's consideration of section 12.
7. The Council responded to the internal review request on 9 August 2024 and added further context to its response as well as upholding its position with regard to section 21 also adding its reliance on section 12 of FOIA due to the broadened scope of the request and aggregation of the two requests which were of similar nature and received within seven days of each other.
8. Following the Commissioner's intervention the Council wrote to the complainant on 23 December 2024 providing further direction and context to information in scope of the request and reiterating its reliance on sections 21 and 12 of FOIA.

Scope of the case

9. The complainant contacted the Commissioner on 9 August 2024 to complain about the way their request for information had been handled.
10. The Commissioner considers that the scope of his investigation is to ascertain whether the Council was entitled to rely on sections 21 and 12 of FOIA to withhold information in scope of the request.

Reasons for decision

Section 21 – accessible by other means

11. Under section 21(1) of FOIA, information is exempt from disclosure if it's already reasonably accessible to the applicant.

12. Unlike most exemptions, the circumstances of the applicant can be considered, as the information must be reasonably accessible to the particular applicant.
13. It is reasonable for a public authority to assume that information is reasonably accessible to the applicant as a member of the general public until it becomes aware of any particular circumstances or evidence to the contrary.
14. The complainant has argued that the Council has failed to provide direct access to the specific information requested and fully answer the questions posed.
15. In its internal review response, the Council gave further explanation on the processes around FOIA and in relation to the provision of views or opinions, or the answering of questions posed. It also explained that FOIA is not a route to make complaints about provision of services by the Council, as this should be done by other means.
16. During the Commissioner's investigation the Council was advised to consider if any further guidance may be available to the requester to enable direct access to the information they had initially requested.
17. The Council wrote to the complainant on 23 December 2024 and provided further guidance and assistance to help enable the requester to access information in scope of their original request.
18. The Commissioner's guidance¹ says that "Information is in the public domain if it is easily, readily, and realistically accessible to the public. One example of this is information which can be easily found through a simple internet search. The information should also be available in practice and finding it should not require unrealistic persistence or efforts nor any specialised knowledge." This interpretation was established by the High Court of Justice in the landmark case of Attorney General v Greater Manchester Newspapers Ltd².

The Commissioner's conclusion

19. The Commissioner has reviewed both the complainant's requests and the Council's responses,

¹ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/section-21-information-accessible-to-the-applicant-by-other-means/#what>

² <https://www.bailii.org/ew/cases/EWHC/QB/2001/451.html>

20. The Commissioner is unaware of any particular circumstances that may prevent the complainant from accessing information from the links and guidance provided by the Council and considers that it is 'reasonably accessible'.
21. On the evidence presented to him in this case, the Commissioner considers that the Council has complied with its obligations under FOIA. Therefore, the Council were entitled to rely on section 21 of FOIA.

Section 12 – cost of compliance

22. This reasoning covers whether the Council is entitled to rely on section 12(1) of FOIA to refuse to provide information in scope of the request.
23. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the "appropriate limit" as set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations").
24. For public authorities such as the Council the appropriate limit is set in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 at £450 for public authorities.
25. The notional cost of the staff time needed to comply with a request must be estimated at a rate of £25 per person per hour. This means that section 12(1) of FOIA effectively imposes a time limit of 18 hours for the Council.
26. During the Commissioners investigation the Council reiterated the position that it considered this request against the cost limits in the Act and with regard to the complainant's similar previous request of 7 June 2024. It also outlined the fact that the scope of the request was broadened at internal review resulting in further consideration for section 12.
27. The Council states that on 7 June 2024 it received a substantially similar request from the complainant and had aggregated the two requests as they:
 - are made by one person;
 - relate, to any extent, to the same or similar information; and
 - be received by the public authority within any period of 60 consecutive working days.

28. The Council went on to explain that it has provided a thorough response to the request for information. The Council estimates that this has already taken over 18 hours of time.
29. The Council further explained: "The following officers have contributed to the response provided: - Service Manager - Early Help - Social Care and Education - Public Health Consultants x 2 - Head of Commissioning - Adult Social Care.

Public Health have estimated that their contribution took approximately 4 hours. Adult Social Care have estimated that their contribution has taken approximately 23 hours.

The details of the activities of the officer in Adult Social Care are as follows:

- Collaborate with different colleagues which required other officers to review their files to locate information.
- Reviewing folders on the Council's internal system, searching through files within folders.
- Searching the Council's website and other public sources of information including the LPT website.
- Searching through reports, papers, presentations, minutes of meetings that have been presented to the different Boards where information may be held.
- Reading through lengthy reports and strategies. This includes those linked, which in themselves total 6 documents and over 250 pages. Reviewing the relevant documents and determining that they are in scope alone would have taken approximately 6 hours of officer time assuming an average reading rate.

Notwithstanding the thorough response provided, it is not possible to confirm that all information that falls within the scope of the 2 requests has been provided to you as to do so would require the council to search through a further 176 individual documents. The Council has sampled 23 of those documents and they alone total 161 pages. Assuming therefore an average of 7 pages per document, the total number of pages to read would be 1232, in order to determine whether the information is contained within the document, and if so, extracting the relevant information.

Based on an average reading time of 2 minutes per page, the Council estimates that this would take over 41 hours of officer time."

30. The Council offered guidance on how the complainant may refine their request, however, this was no guarantee of bringing it within the cost limits.

31. The Commissioner's decision is that the request exceeds the threshold for section 12 and therefore, the Council is entitled to rely on section 12(1) of FOIA to refuse to comply with the request.

Section 16 – duty to provide advice and assistance

32. Section 16 of the FOIA requires public authorities to provide reasonable advice and assistance to those making, or wishing to make, information requests. The FOIA defines specific scenarios where the duty to provide advice and assistance is triggered. One such scenario are instances where an authority applies section 12.
33. When a public authority refuses a request because the cost of compliance exceeds the appropriate limit, it should explain, to the requester, how they could refine their request such that it would fall within that limit. In some cases, it will be appropriate for the public authority to explain to the requester why their request cannot be meaningfully refined.
34. Having reviewed the Council's correspondence the Commissioner considers the Council provided appropriate advice and assistance that was reasonable in the circumstances. He is therefore satisfied that the Council complied with its obligations under section 16.
35. The Commissioner requires no further action to be taken by the Council in relation to the request.

ANNEX A

"I am submitting a Freedom of Information request to obtain detailed information on the provision of services and support for individuals with ADHD and other mental health conditions within Leicester City, as outlined in the Care, Health, and Wellbeing Strategy 2022-2027 "Healthy Minds". Specifically, I request the following information:

1. Training and Education: - Details of training programmes provided to staff across disciplines and sectors to reduce stigma and misinformation regarding ADHD and mental health. - Evaluation methods used to assess the effectiveness of these training programmes.
2. Service Integration and Long-Term Planning: - Measures in place to promote a holistic approach to care for individuals with ADHD and mental health conditions. - Strategies to ensure long-term planning and budgeting to prevent short-termism in mental health services. - Initiatives aimed at integrating health and social care within a single budget to reduce service fragmentation.
3. Transition from Child to Adult Services: - Efforts and investments made to coordinate clinical service delivery from child to adult services, particularly for ADHD. - Approach to addressing regional variability in ADHD healthcare provision.
4. Primary and Secondary Care Integration: - How ADHD is incorporated into secondary care within adult mental health services. - Support mechanisms from primary care to facilitate long-term treatment of ADHD.
5. Community Wellbeing and Support: - Role of Community Wellbeing Champions in supporting individuals with ADHD and mental health conditions. - Training programmes for Community Wellbeing Champions and their specific outcomes.
6. Documentation and Data: - Director of Public Health Annual Reports from 2019 to 2023 for Mental Wellbeing. - Documentation related to the assessment of mental - Documentation related to the assessment of mental health and ADHD services within the Joint Strategic Needs Assessment (JSNA). - Reports outlining barriers to accessing ADHD and mental health services.
7. Outcomes and Evaluation: - Methods used by the council to measure outcomes of ADHD and mental health services. - Key performance indicators used to evaluate the effectiveness of these services. - Recent evaluations or reviews of ADHD and mental health services in Leicester.

8. Support for Vulnerable Populations: - Initiatives in place to support vulnerable populations (e.g., socially isolated, experiencing poverty) in relation to ADHD and mental health.

Please provide the requested information to facilitate understanding of Leicester City's approach to addressing ADHD and mental health conditions as per the outlined strategy."

Right of appeal

36. 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

37. 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.
38. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Deirdre Collins
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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Cheshire
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