

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

### **Decision notice**

**Date:** 1 October 2013

**Public Authority:** Cheshire West & Chester Council

**Address:** Headquarters  
Nicholas Street  
Chester  
CH1 2NP

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

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1. The complainant requested information regarding the number of adults with learning disabilities receiving support from social workers.
2. The Commissioner is satisfied that the public authority provided the information it held.
3. The Commissioner requires no steps to be taken.

#### **Request and response**

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4. The complainant made a request for information on 14 September 2012 as follows:  
"How many adults with learning disabilities are currently receiving non-chargeable professional support from social workers and approved social workers across Cheshire West and Chester?"
5. The Council responded on 5 October 2012 to the request and provided its response as:  
"67 LD [learning disabilities] customers are currently receiving IC Social Work Support, PC Professional Support and Social Work Support."
6. The complainant contacted the Council on 18 October 2012 to query the council's response to the request, and asked:

"Could you please let me know what happened to the other 200 plus adults with learning disabilities?"

7. The Council responded on 1 February 2013 stating:

"I can confirm that our response to you dated 5 October 2012 is accurate. The information requested has been provided in the form recorded by the Council and provides a full response to the request. We had no record of any additional 200 plus adults with learning disabilities."

8. The complainant provided further information on 3 February 2013 including a document dated 3 March 1999 which she considered indicated that in excess of 200 adults with learning disabilities were now "missing".

9. The Council made a further response on 20 February 2013 explaining that the figure quoted in its response related to a specific period in time (25 August – 21 September 2012) and a different geographical boundary to the information held by the complainant from 1999..

10. Following the intervention of the Commissioner the Council provided a more detailed response on 30 May 2013 setting out the recorded information held on the total numbers of adults with learning disabilities receiving any support for the financial year 2012/2013 to the date of the request. A comprehensive, detailed review by the Council on 7 August 2013 concluded that the information held which was relevant to the requests had been provided.

## **Scope of the Case**

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11. The Commissioner's investigation has considered whether, on the balance of probabilities, the Council holds any further undisclosed information on the complainant's request.

12. The Commissioner notes that the complainant has many concerns regarding the whereabouts of adults with learning disabilities documented in the document of 3 March 1999. She explained that her concerns are long-standing and alleges that social workers were informed that the "clients" on their workloads receiving professional support would be lost when the electronic recording system came into effect, if they did not update their workloads. However these operational functions of the Council fall outside the role of the Commissioner.

## Reasons for decision

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13. 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, applies the civil standard of the balance of probabilities. The Commissioner must decide whether on 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).
14. The Commissioner questioned the Council on the searches it had undertaken to locate the requested information. It explained that the Council operates an electronic adult information system which holds records of all adult social care activity. It searched for all "Learning Disability customers" with a social work support/professional support service in receipt of service in period 6 (25 August 2012 – 21 September 2012). The Council determined the complainant's request for "current" information to be as the latest data available at the time of the request (14 September 2012).
15. The Council confirmed that it searched the electronic data held on its networked system. The Council explained that its searches did not include personal computers or laptops because the relevant electronic data is retained on its central electronic system.
16. The Commissioner questioned whether any recorded information ever held, relevant to the scope of the request, had been deleted, ceased to be retained or destroyed. The Council confirmed that no data covering the scope of the request had been deleted or destroyed. It explained that the Council's formal records management policy records data of this nature for a minimum of 7 years.
17. The complainant questions the figures provided by the Council which state that 67 adults with learning disabilities received non-chargeable professional support (in period 6 from 25 August to 21 September 2012). In support of her questioning she provided the document entitled 'Care Plans for ALD' from 3 March 1999, which commented:

"...about half of all ALD clients i.e. 180-200 do not have a named care manager but are care managed by the team."
18. The complainant has reiterated that she wants to know "...what happened to the other 200 plus adults with learning disabilities". The Council explained to the complainant that it could not comment on the figures in the document she provided in comparison to the figures it had provided, other than to comment as follows:

"...they do appear to relate to a different period of time and presumably a different geographical boundary as they predate the formation of Cheshire West and Chester Council."

19. In its final review the Council provided a speculative comment on the figures quoted above by suggesting that the figures show an increase in the total number of adults with learning disabilities rather than a decrease of '200 missing adults'. The Council referred to the total number of adults with learning disabilities for period 6 being 535 in comparison with the 1999 figure of 360 – 400 (derived from 180 – 200 comprising half the total number). The Commissioner notes that, notwithstanding any impact brought about by boundary changes as the result of the formation of the new Cheshire West and Chester Council in 2009 and the reasonable expectation that the number of service users would change over a period of 14 years, it appears that there has been an increase in service users.
20. The Commissioner has concluded that the Council conducted appropriate searches to provide the information requested and considers that, on the balance of probabilities, the Council has provided the recorded information it holds within the scope of the request.
21. The Commissioner explained to the complainant that it is not within his remit to investigate her allegation that 200 adults with learning disabilities are "missing". His task as regulator of the FOIA is to determine, in this case, whether the Council holds further recorded information relevant to the request. As such his decision is that the Council has disclosed all the information it holds relevant to the request.

## **Other Matters**

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22. The Commissioner notes that the Council did not respond promptly to the complainant's correspondence of 18 October 2012. The Commissioner is of the view that the question asked should have been handled by the Council as a request for internal review of its original response. As such, although the FOIA does not specify a time limit to respond, the Commissioner nevertheless considers 20 working days to be an appropriate time in which to respond. The Commissioner also notes, however, that the Council has acknowledged the delay and apologised to the complainant.

## Right of appeal

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23. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

24. 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.
25. 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 .....**

**Alexander Ganotis**  
**Group Manager – Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**