

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

### **Decision notice**

**Date:** 24 June 2014

**Public Authority:** Trafford Borough Council  
**Address:** Trafford town Hall  
Talbot Road  
Stretford  
M32 0TH

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

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1. The complainant has requested information with regards to a compulsory purchase order. Trafford Borough Council (the council) provided the information redacting parts under section 40 of the FOIA. The complainant is not satisfied that the council has provided all of the information and also is not satisfied with the time it took to be provide all of the information.
2. The Commissioner's decision is that the council has now provided all the information it holds within the scope of the request but has breached section 10(1) of the FOIA as it took some 11 months to provide it all.
3. As the council has now provided the information it holds, the Commissioner does not require the council to take any steps.

## Background

4. The complainant is the personal representative to a deceased family member. The deceased family member's house was sold under a compulsory purchase order by the council. The complainant has requested information about this compulsory purchase order. The council has provided the complainant with the information under the FOIA and in his capacity as the personal representative. The council has advised the Commissioner that the information the complainant has received under each capacity is the same, barring any redactions it has made under the FOIA.

## Request and response

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5. On 3 June 2013, the complainant wrote to the council and requested information in the following terms:

*"I am requesting all the recorded information under the Freedom of Information Act 2000 relating to the compulsory purchase of [address redacted] in the Borough of Trafford up to and including the date when a claim for compensation was made."*

6. The council acknowledged receipt of the request on the 6 June 2013. The complainant then requested an update on the 26 June 2013 as he had not received a response from the council.
7. The complainant contacted the Commissioner on 2 July 2013 as he had not received a response from the council to his information request.
8. The council responded to the complainant on the 10 July 2013 and provided a schedule detailing the information relating to the compulsory purchase order.
9. The complainant requested an internal review on 10 July 2013 and again on the 13 July 2013. The council sent a further response on the 17 July 2013 and advised the information redacted has been done so under section 40 of the FOIA. It then advised that if the complainant was not satisfied, he could request an internal review.
10. On the 18 July 2013, the complainant advised the council that he had already requested an internal review on the 10 July 2013. However, the council provided an internal review on the 30 August 2013 in which it maintained its position for its response dated 17 July 2013.
11. The complainant then complained to the Commissioner again as he considered he had not received all the information requested.

12. During the Commissioner's investigations the complainant identified where he considered that there would be further information. This was identified by using a schedule that the council had provided to him in its initial response of 10 July 2013. The schedule listed a dated timeline of what process the council had gone through with regards to the compulsory purchase order.
13. The complainant told the Commissioner that he had not received information relating to points 3 to 6 and 12 to 18 of the schedule that detailed the compulsory purchase order process.
14. The Commissioner contacted the council to ask if further information was held with regards to these points.
15. The council provided further information relating to points 3 to 6 and 12 to 18 of the schedule to the complainant on 17 April 2014.
16. The council also located an email dated 14 November 2008 concerning a roadside inspection for valuation purposes. This email was provided to the complainant on 9 May 2014. It confirmed that this it has now provided all the information held by the council with regards to the request.

### **Scope of the case**

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17. The complainant has asked the Commissioner to determine if the council has provided all the information it holds within the scope of the request and was not satisfied with the time it has taken for the council to provide the information it has. Also he questioned the council's application of section 40 of the FOIA to redact some of the information.
18. After discussing the council's redactions under section 40 of the FOIA with the complainant, and explaining that disclosing information under the FOIA is essentially disclosing that information to the world, it appeared that the information redacted, names of third parties and their contact details, was done so in accordance with the FOIA.
19. The complainant, on this discussion, advised the Commissioner that he was not interested in knowing the redacted names and addresses of third parties; he wanted to know whether he has been provided with all the information held by the council falling within the scope of his request. Or if it is withholding documents.
20. Therefore the Commissioner considers the scope of the case is to determine if the council has now provided all of the information it holds within the scope of the request.

## Reasons for decision

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21. Section 1 of 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 within the scope of the request, and if so, to have that information communicated to him.
22. 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).
23. The Commissioner asked if the council held any further information identified by the complainant, and has asked the council to explain where it has searched for the information and how it is held and whether its further searches located any more information.
24. The council has advised the Commissioner that the departments where it searched for the information were in the Estates, Asset Management, Property, Environmental Health and Legal departments.
25. It also advised that the files held are all paper based, which includes printed emails, and there is no record that any information has been deleted or destroyed.
26. The council provided further information relating to points 3 to 6 and 12 to 18 of the schedule to the complainant on 17 April 2014 and confirmed that this was all that was held for these points.
27. The complainant also considered that there may be information relating to a district valuer and a surveyors report.
28. The council advised that it does not hold information from the district valuer, as the council used its own in house professional resources. It also was not aware of any surveyors report. It explained that the sales particulars contain the necessary information to enable the property to be marketed and prospective purchasers would have had to rely on their own surveys as part of the acquisition process.
29. The complainant asked further about the in house professional resources used, and the council advised the Commissioner that reliance was used on the 12 bids received for the property to give an indication of value. The bid information has already been provided to the complainant.

30. The complainant also considered there was missing email trails in the information provided and that there could be more legal information.
31. The council confirmed from its further checks that no further information is held relating to a legal nature and the email trails. This was confirmed after a meeting was held with two officers involved in the compulsory purchase order process.
32. The council advised the Commissioner that it can only assume with the emails that there may have been verbal communications instead of email replies resulting in the apparent lack of email trail.
33. The Commissioner has addressed with the council its general further searches and has asked it whether it holds specific information identified by the complainant.
34. The Commissioner does understand that with the time it has taken the council to provide the information, and with further information only coming to light after the Commissioner became involved, this would cause the complainant to question the council and raise suspicions as to whether it was withholding information from him.
35. On considering all of the above, and the searches the council has carried out for specific pieces of information as well as a general search, the Commissioner, on the balance of probabilities, is satisfied that the council has now provided all the information that it holds within the scope of the complainant's request.

### **Section 10(1) of FOIA**

36. Section 10(1) of the FOIA states:

*"...a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."*

37. The information request was made on the 3 June 2013. The council did not provide its initial response until the 10 July 2013 and all the information it held was not provided to the complainant until 09 May 2014.
38. The council took over 11 months to provide the complainant with all the information it held within the scope of the request. As this is clearly outside the required 20 working days of the FOIA, the Commissioner's decision is that the council has breached section 10(1) of the FOIA.
39. As the information has now been provided to the complainant, the Commissioner does not require the council to take any steps, however

he suggests that the council takes note of the extensive amount of time that it took to provide the information to the complainant to ensure it adheres to the time limits set out in the FOIA for future requests.

## Right of appeal

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40. 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: [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)

41. 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.
42. 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**