

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 March 2016

**Public Authority:** London Borough of Hackney  
**Address:** Town Hall  
Mare Street  
London  
E8 1EA

#### Decision (including any steps ordered)

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1. The complainant has requested information from London Borough of Hackney (the Council) on why the lettings policies for 60 specially adapted flats for older and disabled people were dismantled. He has also requested information regarding who takes responsibility for the new scheme and who deals with allocations.
2. The Commissioner's decision is that the Council does not hold any further recorded information falling within the scope of the request.
3. The Commissioner requires the Council to take no further steps.

#### Request and response

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4. On 29 September 2014, the complainant wrote to the Council and requested information in the following terms:

*Three months ago the Channel 4 TV program informed the public, that Tower Hamlet Council still reserves the ground floor flats for those individuals with walking difficulties.*

*In her reply [redacted name] explained to me that this policy does not exist any more. Here are my questions:*

- 1) *When was the policy dismantled?*

*2) Who takes the responsibility for this action? Hackney Council? Hackney Council and Hackney Homes together? Or Hackney Homes alone?*

*3a) Who in Hackney takes the responsibility for the inevitable, but in this case intentionally in – built frictions created by this new scheme?*

*3b) I had asked who in Hackney Homes deals with allocations.*

5. The Council responded to the complainant on 3 November 2014.
6. In regards to request 1, the Council explained that the policy had not been dismantled. It therefore explained that information for request 2 was not held because the policy was still in operation.
7. In relation to request 3(a) the Council explained:  
*“This seems to be a comment and a request for an opinion rather than a request for held information. In addition to this is the fact there is no new scheme, allocations continue to be made as set out in the Councils letting policy; <http://www.hackney.gov.uk/h-lettings-policy.htm>”*
8. In regards to request 3(b) The Council stated that allocations are wide ranging and completed by various teams in Hackney Homes.
9. The complainant wrote to the Council on 26 November 2014 and expressed dissatisfaction with the response he had received. He subsequently repeated his requests for information.
10. Following an internal review the Council wrote to the complainant on 16 July 2015. Upon its review, the Council upheld its previous decision.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 22 October 2015 to complain about the way his request for information had been handled.
12. Specifically he believed the Council held information within the scope of requests 1, 2 and 3.
13. The Commissioner has had to consider whether the Council holds any further information falling within the scope of the requests.

## Reasons for decision

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14. Section 1(1) of the 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 of the description specified in the request, and*

*If that is the case, to have that information communicated to him”*

15. 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 ICO, following the lead of a number of information Tribunal decisions, applies the civil standard of balance of probabilities.
16. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
17. The Complainant has argued that the Council holds the information within the scope of request 1, 2 and 3.
18. During the investigation of this case the Commissioner returned to the Council and asked it a number of questions in order to be satisfied that on the balance of probabilities no further information was held.
19. With reference to request 1, the complainant argued that the policy had been dismantled. The Commissioner returned to the Council on this point. The Council explained that it did not dismantle its policy. However, it does review it on a yearly basis and updates it where necessary. The Council confirmed that the current lettings policy went live on 1 April 2014. This new policy replaced the previous policy “How we let our homes” launched in May 2012.
20. With reference to request 2 the Council confirmed that the Assistant Director of Revenues and Benefits has overall responsibility for the lettings policy.
21. For request 3(a) the Council argued that this is a comment and a request for an opinion rather than a request for held information. The Council is not aware of any in built frictions created by their policy; this is seen as a matter of opinion. The Commissioner agrees with the Council as this is an opinion and not a request for recorded information.

The Council is not aware of any in built frictions created by their policy; this is seen as a matter of opinion. The Commissioner also notes that the Council has now informed the complainant – in relation to request (2) – who has overall responsibility for its letting policy.

22. In request 3(b) the Council has explained that allocation work is wide ranging and completed by various teams in the Housing and Hackney Homes. There is no one individual who is responsible for allocation.
23. During the investigation of the case this additional information was provided to the complainant. However, he continued to argue that the Council has not properly responded to his requests.
24. From the submissions presented by the Council, the Commissioner is satisfied that on the balance of probabilities the Council has provided the complainant with all the recorded information that falls within the scope of his request.

## Right of appeal

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25. 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@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)

26. 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.
27. 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 .....

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**