

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 August 2019

Public Authority: London Borough of Camden

Address: Town Hall
Judd Street
London
WC1H 9JE

Decision (including any steps ordered)

1. The complainant has requested information concerning applications to the Camden Housing register over a three year period.
2. The Commissioner's decision is that, on the balance of probabilities, the London Borough of Camden ("the Council"), does not hold any further information to that already disclosed.
3. The Commissioner does not require the Council to take any further steps.

Request and response

4. On 19 May 2018, the complainant wrote to the Council and requested information in the following terms:
 - "1. The total number of applications into Camden housing register for the last three years (with the last year being the most period available) and the total number of successful applications.*
 - 2. The total number of applications into Camden housing register for the last three years from the applicants who disclosed their ethnicity as "White UK" (with the last year being the most period available) and the total number of successful applications within this group."*
5. On 13 June 2019 the public authority contacted the complainant seeking clarification of "successful applications" to the housing register.
6. The complainant responded on the same day and confirmed that, when referring to "successful applications", they meant *"applications into housing register which were, in fact, admitted into the housing register."*
7. The Council responded to the request on 21 June 2018 and disclosed information in response to each part of the request. Its response is provided at Annex A.
8. On 6 July 2018 the complainant requested an internal review on the grounds that the data provided to him by the Council was incorrect.
9. In his review request the complainant stated that the total number of applications into the housing register should, by his calculations, amount to 13660.
10. Following an internal review the Council wrote to the complainant on 24 July 2018. The internal review addressed three separate requests for information submitted to the Council by the complainant: FOI11166, FOI11171 and FOI11220.
11. This decision notice refers to request FOI11166. With regard to this request, the Council maintained its position at internal review and stated that it had disclosed the information it held within the scope of the request.

Scope of the case

12. The complainant initially contacted the Commissioner on 13 June 2018 to complain about the fact that the Council had sought clarification of his

request. The complainant considered this to be an attempt by the Council to delay responding to his request.

13. The Commissioner responded on 19 June 2018 and advised that, where a public authority requires clarification from the requestor, it should contact them "without undue delay". In order to investigate the complaint properly, she asked the complainant to provide a copy of his original request and any associated correspondence with the Council.
14. Following the Council's internal review response, the complainant contacted the Commissioner again on 14 October 2018. On this occasion, he provided the Commissioner with a copy of his request and the Council's internal review response. The Commissioner accepted the complaint for further investigation on 17 October 2018.
15. On 1 March 2019 the Commissioner asked the complainant to clarify the grounds of his complaint with regard to each request (FOI11166, FOI11171 and FOI11220). For the request in this case, FOI11166, the Commissioner advised that the scope of her investigation would most likely focus on what information the Council holds within the scope of the request.
16. The complainant responded to the Commissioner on 1 May 2019 and clarified the grounds of his complaint in relation to FOI11166.
17. The Commissioner considers that the scope of her investigation is to determine whether the Council holds further information falling within the scope of the request.

Reasons for decision

Section 1(1): Information held/not held

18. Section 1(1) of the Act 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"

19. In scenarios where there is some dispute between the public authority and a complainant as to whether the information requested is held by the public authority, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of proof, ie on the balance of probabilities, in determining whether the information is held.

The Complainant's position

20. The complainant considers the Council to have provided him with inaccurate information in response to his request. According to the complainant, this inaccurate information is symptomatic of the Council's attempt to mislead him.
21. In its request for an internal review of 6 July 2018 the complainant states that he considers the Council's initial response to his request to be "deliberately misstating" the correct number of applicants onto the housing register.
22. The complainant in this case disputes the content of the information provided to him by the council and states that he considers the total number of applications to the housing register to be 13660.
23. In his submissions to the Commissioner of 1 May 2019 the complainant asks the Commissioner to protect his "*statutory and convention rights by enforcing the Local Authority which is a Data Controller to disclose the requested information*".

The London Borough's position

24. The Council's position is that it has provided the complainant in this case with the information it holds within the scope of the request.
25. The Council considers that the complainant's assumption that the information provided to him is wrong is based on information provided to him as part of a previous request (FOI11419).
26. With regard to request FOI11419, the complainant requested information in the following terms:

"Unfortunately, there is a substantial inconsistency in the data received from your colleagues with the records in my possession and control.

Could you let me know the last number assigned (e.g. the application number) to an application made in December 2015 and the last number received on 20 June 2018, please?

27. In their response to request FOI11419 of 29 June 2018 the Council disclosed the first and last reference numbers of applications to the housing register between the dates relevant to the request:

The final general needs rehousing application created on 31 December 2015 was 404503.

The final general needs rehousing application created on 20 June 2018 was 418163.

28. The Council points out that the difference between these reference numbers is 13660. This is the number used by the complainant to dispute the accuracy of the information provided to him in response to request FOI11166.
29. At internal review the Council explained to the complainant that the casework system does not issue a sequential number to every application and that the complainant's allegations in relation to the disclosed information are "based on an incorrect assumption based on the information provided in FOI11419".

The Commissioner's view

30. The Commissioner's view is that the Council does not hold further information falling within the scope of the request.
31. The request in this case concerns the total number of applications to the Council's housing register and the number of applicants, including those who identify as "White UK", that were successfully entered onto this register over a three year period. The Commissioner considers the public authority to have fulfilled the request by providing the complainant with the information it holds in relation to each part of the request.
32. At internal review, the Council explain to the complainant that it contacted the relevant service area and provided the complainant with the specific numbers of applications to the housing register over a three year period. Following their internal review, the service area confirmed that the information provided to the complainant from their casework system is correct.
33. At internal review the Council also address the complainant's assertion that the total number of applications to the housing register over this three year period is, by his own assertion, 13660. The Council explains that the difference in reference numbers (in this case, 13660) does not signify the total number of applications to the housing register within this time period. The Council state that the reason for this is that the casework system in this case does not issue a sequential number to every case.

34. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. Finally, she will consider any reason why it is inherently likely or unlikely that information is not held.
35. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
36. From the information provided at internal review, the Commissioner considers the Council to have conducted relevant and logical searches for information held within the scope of this request. The Council has liaised with the relevant service area which conducted a search of the casework system containing information pertaining to housing register applications.
37. The Commissioner considers the Council to have fully explained to the complainant why the number of applications to the housing register within this three year period does not match with the information provided to the complainant in response to request FOI11419. She considers the Council's explanations that the casework system does not assign a sequential number to every application to be reasonable.
38. The Commissioner considers the complainant in this case to be disputing the accuracy of the information provided to him by the Council.
39. The FOIA gives the public right of access to recorded information *held* by a public authority. The Commissioner's concerns are thus levelled at information held that is held within the scope of a request. This is because the terms of the FOIA only relate to the provision of information as it is recorded, regardless of its accuracy or validity.
40. The Commissioner has previously explained to the complainant that her investigations focused on what information the Council held within the scope of his request. The Commissioner is not determining whether the information is accurate, only whether information held has been disclosed.
41. From the information provided to her the Commissioner considers that, on the balance of probabilities, no further information is held that falls within the scope of this request. The Commissioner does not require the Council to take any further steps.

Other matters

42. Over the course of her investigation the complainant drew the Commissioner's attention to administrative errors in the Council's correspondence. These amounted to an internal review response containing the wrong date and a section 14 (vexatious request) refusal notice sent in error for FOI11166.
43. The Council explained to the Commissioner that the internal review response contains the wrong date. The Council confirmed that the section 14 refusal notice contains the wrong reference number and in fact refers to the Council's decision in relation to another request submitted by the same complainant (FOI11220).
44. The Commissioner acknowledges that this may have caused some confusion to the complainant. However, the Commissioner does not consider these administrative errors to be substantive issues relating to the Council's identification of information falling within the scope of the request. Furthermore, she disagrees with the complainant's claims that these administrative oversights have deprived him of his statutory and convention rights.
45. The Council has acknowledged these administrative errors and has sought to comply with the complainant's request. In light of the above, the Commissioner considers these matters to have been fully addressed.

Right of appeal

46. 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 123 4504
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

47. 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.

48. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex A

Date: 21st June 2018

Ref: FOI11166

Dear Requester

Thank you for your request for information dated the 21st May about the Camden Housing register applications. We have dealt with this under the Freedom of Information Act 2000.

The council holds the information requested and the answers to your questions are as follows:

1. The total number of applications into Camden housing register for the last three years (with the last year being the most period available) and the total number of successful applications.

2. The total number of applications into Camden housing register for the last three years from the applicants who disclosed their ethnicity as "White UK" (with the last year being the most period available) and the total number of successful applications within this group.

Please note the information below includes a change in Camden's housing allocations scheme which introduced two qualification criteria: residence and need.

This change was implemented on 18 January 2016; the previous scheme ended on 31 December 2015.

Under the previous scheme Camden had an open list, which meant anyone living in the UK could apply and be added to the list if they had the correct immigration status.

Between 21 June 2015 and 20 June 2018 inclusive we received 9,754 new applications for general needs housing.

Of those, 1,776 were received between 21 June and 31 December 2015 under the rules of the previous, open scheme and were placed on the list.

Of these 1,776 'old scheme' application, 1,553 were also considered under the rules of the new scheme and 440 deemed to qualify.

Of the 1,776 applications received between 21 June and 31 December 2015, 462 were from applicants who identified as being White UK. Of the 1,553 of these applications considered under the new rules, 405 identified as White UK. Finally, of the 440 deemed to qualify, 119 identified as White UK.

Of the 7,978 applications received since January 2016, 2,148 were from applicants who identified themselves as White UK. Of the 3,718 deemed to qualify 963 were identified as White UK.