

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

### **Decision notice**

**Date:** 28 June 2021

**Public Authority:** Sheffield City Council

**Address:** Town Hall  
Pinstone Street  
Sheffield  
S1 2HH

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

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1. The complainant has requested from Sheffield City Council (SCC) information, in general terms, about the qualifications of staff working in its Adult Social Care Commissioning Service. SCC disclosed some information to the complainant, but the complainant believed it held further information. During the Commissioner's investigation, SCC located further, relevant information.
2. The Commissioner's decision is that SCC failed to disclose all the information it held within 20 working days, which is a breach of section 1 (General right of access) and section 10(1) (Time for compliance) of the FOIA.
3. The Commissioner requires SCC to take the following steps to ensure compliance with the legislation:
  - Disclose to the complainant the number of officers in the Adult Social Care Commissioning Service that have qualifications in "*allied disciplines*".
4. SCC must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

## Request and response

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5. On 9 March 2020, the complainant wrote to SCC and requested information in the following terms:

*“Please advise me how many officers in the Adult Social Care Commissioning Service have qualifications in medicine or medical science or allied disciplines not related to Health and Safety at Work.*

*Please advise me how many officers have specific training in identifying diseases of the elderly or any geriatric malady. In the event that officers are suitably trained please provide an indication of qualifications achieved, skills presented and length of time such qualifications or skills have been practiced.”*
6. SCC responded on 20 March 2020. It refused the request, stating that it was vexatious and repeated, within the meaning of sections 14(1) and 14(2) of the FOIA. The Commissioner considered SCC’s response in a decision notice issued under reference IC-44291-M3B5. She found that sections 14(1) and 14(2) of the FOIA were not engaged, and ordered SCC to issue a fresh response.
7. SCC provided a fresh response on 17 March 2021. It answered both parts of the request with a spreadsheet of qualifications and training undertaken by 47 officers in its Adult Social Care Commissioning Service, with a date, year or range of years, beside each entry.
8. The complainant believed the information was incomplete, as a particular qualification which she had previously been told a member of staff held, was not amongst those listed. She also noted that the wrong date range had been utilised by SCC. She requested an internal review on 18 March 2021.
9. SCC provided the outcome of the internal review on 21 May 2021. It explained it had employed a revised interpretation of the request, and as such it now believed that no officers in the Adult Social Care Commissioning Service had qualifications in medicine or medical science or allied disciplines. For the second part of the request, it similarly responded that no officers had specific training in identifying diseases of the elderly or any geriatric malady.

## Scope of the case

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10. On 21 May 2021 the complainant contacted the Commissioner to complain about the internal review response, saying that it conflicted

with specific information she had previously received from SCC regarding staff qualifications.

11. The analysis below considers whether SCC has complied with section 1 and section 10 of the FOIA in its handling of the request.

## Reasons for decision

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### Section 1 – general right of access

### Section 10 - time for compliance

12. Section 1(1) of the FOIA states that an individual who asks for information is entitled to be informed whether the information is held and, if the information is held, to have that information communicated to them.
13. Section 10(1) of the FOIA states that on receipt of a request for information, a public authority should respond to the applicant within 20 working days.
14. The complainant has explained to the Commissioner that the request in this case was motivated by conflicting information previously disclosed to her by SCC, about the qualifications of staff responsible for commissioning care services.
15. On 1 July 2019 the complainant had submitted a request for information, asking to know how many staff in that area had qualifications in medicine or medical science or allied disciplines. In its response, dated 26 July 2019, SCC had said that none of the staff in question were "*medically qualified*". However, in a report it issued in January 2020, in response to a separate service complaint she had submitted, SCC said that a particular officer had a specific qualification which the complainant considered fell within the type specified in her previous request. The complainant told the Commissioner that she considered this was evidence of SCC lying in its earlier response.
16. Section 77 of the FOIA makes it an offence for a public authority to alter, block, conceal, erase or destroy information with the intent to prevent disclosure in response to a request made under FOIA. However, action under this section is time barred, meaning that a prosecution must be initiated within six months of the alleged offence occurring.
17. While appreciating the complainant's frustration that SCC has communicated contradictory responses, the Commissioner has explained to her that due to the time that has elapsed since SCC responded to her earlier request, it is not possible to investigate this matter.

18. However, the Commissioner has questioned SCC about the discrepancies in its responses to current request. She issued an Information Notice on 24 May 2021 which asked it a series of questions about its handling of the request and why its initial response and its internal review differed so dramatically.
19. SCC explained that information about the qualifications specified in the request isn't held on its central HR files, as such qualifications are not a requirement for jobs in the Adult Social Care Commissioning Service. SCC therefore believed that it was necessary to consult the application forms of individual staff members, to check if any information about relevant qualifications was held there.
20. Application forms are not held centrally, they are held locally, by different council services. When putting together SCC's response of 17 March 2021, the Adult Social Care Commissioning Service was asked for the application forms of its staff. SCC's Development Hub, which contains information about staff training and E-learning, was also searched for information. However, while these locations yielded the information that was provided to the complainant in the initial response, neither contained information about a member of staff having the specific qualification that the complainant was referring to.
21. On receipt of the Commissioner's Information Notice, one of the questions prompted SCC to conduct a search of local drives and an application form was located which confirmed that a staff member in the Adult Social Care Commissioning Service did hold the particular qualification which the complainant had queried.
22. The Commissioner wishes to make it clear that when dealing with a complaint of this nature, it is not her role to make a ruling on how a public authority deploys its resources, on how it chooses to hold its information, or the strength of its business reasons for holding information in the way that it does as opposed to any other way. She also cannot comment on wider concerns the complainant has expressed about the way SCC discharges its functions. Her remit concerns only the disclosure of the actual recorded information that has been requested.
23. When the Commissioner receives a complaint that a public authority has not disclosed some of the information that a complainant believes it holds, it is often not possible to prove with absolute certainty whether it holds further, relevant information. However, in this case, that SCC holds further information is not in dispute. SCC has admitted that its original response and internal review were deficient, and that it does hold further information falling within the scope of the request.
24. The Commissioner notes that the request consists of two parts. The first part is phrased in such a way that compliance with it requires the

disclosure of a number (ie the number of "officers... [who] have qualifications in medicine or medical science or allied disciplines"). The Commissioner considers that the information SCC has recently located falls within the scope of the first part of the request, in that it is a qualification in an "allied discipline".

25. The Commissioner is therefore not satisfied that SCC provided a response to the request that complies with section 1(1) of the FOIA, as it had not established precisely what information it held before responding to the complainant.
26. Because SCC failed to disclose the information to the complainant within the statutory 20 working day time for compliance, it also breached section 10 of the FOIA.
27. To rectify this, SCC should now take the action set out in paragraph 3.
28. While the Commissioner is sympathetic to the immense pressures placed on public authorities during the coronavirus pandemic, she notes that the original request for this information pre-dates the pandemic, and that SCC's response to it failed to correctly identify that a relevant qualification was held. She also questioned why SCC's initial response to the current request was to disclose a significant amount of information about staff training and qualifications, when the subsequent internal review then said that no information was held.
29. SCC has explained that its varying responses reflected changes in its interpretation of the request. When initially responding, a very broad reading of the request was employed. At internal review, a narrower definition was employed and a decision was taken that the qualifications and training staff held did not fall within "qualifications in medicine or medical science or allied disciplines" or "specific training in identifying diseases of the elderly or any geriatric malady" specified in the request. Hence, SCC revised its position and said that no information was held.
30. On that point, the Commissioner notes that in her previous decision notice, in direct reference to the qualification in question here, she stated: "The Commissioner considers such a qualification to fall within the scope of the "allied disciplines" which the complainant had specified she wanted information on". In her view, in interpreting the request, SCC has focussed excessively on the extent to which the request asks to know about "medical qualifications" and has not had proper regard to what qualifications might fall under "allied disciplines".
26. The Commissioner considers it unacceptable that the complainant was put to the inconvenience of submitting a second request for the purpose of verifying whether the response she received to the first one was correct. SCC's attention is drawn to the need to interpret requests objectively and to establish, at the outset of the request-handling

process, exactly what information is being requested and what information it holds, clarifying this with the requester if necessary.

27. The Commissioner uses intelligence gathered from individual cases to inform our insight and compliance function. This aligns with the goal in our draft "Openness by design"<sup>1</sup> strategy to improve standards of accountability, openness and transparency in a digital age. The Commissioner aims to increase the impact of FOIA enforcement activity through targeting of systemic non-compliance, consistent with the approaches set out in our "Regulatory Action Policy"<sup>2</sup>.

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<sup>1</sup> <https://ico.org.uk/media/about-the-ico/consultations/2614120/foi-strategy-document.pdf>

<sup>2</sup> <https://ico.org.uk/media/about-the-ico/documents/2259467/regulatory-action-policy.pdf>

## Right of appeal

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31. 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@justice.gov.uk](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

32. 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.
33. 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** .....

**Samantha Bracegirdle**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**