

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

### **Decision notice**

**Date:** 22 December 2022

**Public Authority:** Oxford City Council

**Address:** Town Hall  
St Aldate's  
Oxford  
OX1 1BX

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

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1. The complainant has requested the number of Oxford City Council and Oxford Direct Services employees who have been formally or informally disciplined due to sickness absence in every month in the past five years.
2. The Commissioner's decision is that Oxford City Council (OCC) has failed to comply with its duties under section 1(1)(b) of FOIA.
3. The Commissioner requires OCC to take the following steps to ensure compliance with the legislation.
  - OCC must issue a fresh response and disclose the requested information; or
  - Provide a refusal notice in accordance with its obligations under section 17 of FOIA stating the FOIA exemption it wishes to rely on.
4. OCC 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 November 2021, the complainant wrote to OCC and requested information in the following terms:

“1. I would like to know the number of Oxford City Council employees who have formally or informally disciplined due to sickness absence every month in the past five years.

2. I would like to know the number of Oxford Direct Services employees who have formally or informally disciplined due to sickness absence every month in the past five years.”

6. The OCC initially responded on 6 December 2022. It stated that

“We don't hold records on the information requested as absence management is undertaken locally by line management.”

7. Following several further questions from the complainant, OCC responded on 17 January 2022 as follows:

“Information on absences is held centrally within the HR management information system. This information is used to monitor absence levels at a corporate level and for managers to consider if action is appropriate at a local level. Managers are expected to manage absence locally and we have comprehensive guidance in place to assist them with this. We do not hold a centralised record of actions taken by line managers. Should HR need to be involved in a particular case then management records would be available from the line manager.

The information is therefore available within the organisation, but not in a format that enables us to provide a response to your request.”

8. On 1 February 2022 OCC further responded as follows:

“As stated previously, information about informal and formal actions in relation to absence management is kept locally by line managers. It is not in a centralised management information system and therefore not in a format in which it can be collated. We have responded to your freedom of information request number 10558 in full, and we have provided answers to three follow on questions. We now consider the matter closed.”

9. Following an internal review, OCC wrote to the complainant on 27 May 2022. It stated that:

"As stated previously, information about informal and formal actions in relation to absence management is kept locally by line managers. It is not in a centralised management information system and therefore not in a format in which it can be collated and sent to you.

Whilst I agree that the initial one line answer that was sent to you was not comprehensive enough in its explanation, I believe that the answers to your subsequent follow up questions have answered your questions fully as to why the information cannot be sent to you, in that it is not stored in a collatable, anonymisable way."

10. On the 28 June 2022, OCC responded to further correspondence from the complainant as follows:

"Our Human Resources department have confirmed that as advised before disciplinary matters are managed at a local level:

Managers are expected to manage absence locally and we have comprehensive guidance in place to assist them with this. We do not hold a centralised record of actions taken by line managers. Should HR need to be involved in a particular case then management records would be available from the line manager. I have received more information about the nature of the sickness absence recording process for you which is as follows:

Line managers record all sickness absence in our HR information system and a Bradford Factor Score is generated from this data. Each line manager therefore has access to the full sickness absence history and Bradford Factor score (known locally as the Oxford factor) for all of their staff. They are expected to refer to this information and take it into account each time an employee has a sickness absence. The calculating for the absence score for a 12 month period is:-

number of periods of absence x number of periods of absence x number of days of absent."

11. On 28 October 2022 following an internal review of the further questions of the complainant, OCC responded stated the following:

"1. You have provided no specific details of your HR information system. Please provide details. The Council uses MHR iTrent  
2. How many line managers are there at both Oxford City Council and Oxford Direct Services? 194  
3. Why are line managers not able to provide information regarding the number of employees who have been disciplined due to sickness absence? We have a large number of managers who deal

with sickness absence issues for their own teams. The actions taken are not centrally recorded on our HRIS and therefore we are unable to report the number of people that have been dealt with under the formal procedure of our attendance policy. I have also attached our attendance policy for reference.”

## **Scope of the case**

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12. The complainant initially contacted the Commissioner on 16 March 2022 to complain about the way his request for information had been handled as follows:

“The council admit they hold the information that I have requested, however, it is in a format that cannot be collated. They have failed to provide details of how data is stored, document management system used and format of data.”

13. The Commissioner has considered whether OCC has complied with its obligations under sections 1 of FOIA.

## **Reasons for decision**

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14. Section 1(1) of FOIA 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.”

15. When a public authority receives a request, its first duty is to establish whether it does in fact hold any of the information that has been requested. It should then provide the requestor with the information or provide a valid reason why it cannot, provided it believes an exemption within FOIA allows it to do so.
16. The key part of OCC’s internal review responses is that although it holds information on sickness levels on a corporate basis, it cannot easily identify and separate the information relating to informal and formal disciplinary actions that may have been undertaken, as the information is held on the personal MHR iTrent sites of its 194 managers responsible

for the line management of its staff. HR do not have access to this information centrally.

17. The Commissioner does not consider that explanation is sufficient alone for OCC to discharge its duty under section 1(1) of FOIA.
18. In failing to provide the complainant with a definitive statement as to which exemption within FOIA that it was relying on to not provide the complainant with the information requested, the Commissioner considers that OCC has failed to comply with its duty under section 1(1)(b) of FOIA.

## Right of appeal

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19. 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: 0203 936 8963

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)

20. 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.
21. 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 .....**

**Catherine Fletcher**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**