

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 October 2022

Public Authority: Gwynedd Council
Address: Shirehall Street
Caernarfon
Gwynedd
LL55 1SH

Decision (including any steps ordered)

1. The complainant has requested information about Homes in Multiple Occupancy (HMOs). The above public authority ("the public authority") denied holding the information.
2. The Commissioner's decision is that the public authority does hold the information and has therefore failed to comply with its duty under section 1 of FOIA.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Either provide the information to the complainant or issue a refusal notice that complies with section 17 of FOIA.
4. The public authority 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

5. On 25 March 2022, the complainant wrote to the public authority and requested information in the following terms:

"Could you tell me the ward in Gwynedd with the greatest density of HMOs; could you also tell me the density of HMOs in that ward as a percentage of all residential property in the ward; could you also tell me the number of HMOs in that ward."
6. The public authority responded on 7 April 2022. It refused to provide the requested information and relied on section 40 of FOIA (third party personal data) to withhold it.
7. Following an internal review the public authority wrote to the complainant on 26 April 2022. It now stated that it did not hold the information.

Reasons for decision

8. Just because a public authority does not possess a piece of information in a particular form, it does not mean that that information is not held. Information will be held if the public authority holds the building blocks from which the information could be assembled.
9. Section 232 of the Housing Act 2004 requires every local housing authority to establish and maintain a list of HMOs, including the address and postcode of each HMO. If the public authority did not hold such information it would be in breach of its obligations under that Act.
10. Furthermore, the public authority in this case clearly does hold this information as it has responded positively to previous requests for information from the HMO register.¹
11. The public authority would also hold information on residential properties as it will need to have that information in order to levy council tax.
12. Finally, whilst the public authority does not appear to have a publicly-available tool to help its residents find their councillor (councillors each

¹ https://www.whatdotheyknow.com/request/hmo_register_201905

representing a particular ward), it must hold either maps of each ward or lists of postcodes within each ward – it would need these in order to ensure that councillors are kept abreast of developments in their own ward. In any event there are free, publicly available tools (such as writetothem.com) that can convert postcodes into council wards.

13. Compiling the information requested would simply be a task of combining the information identified in paragraphs 9, 11 and 12 – all of which the public authority holds. This may be a time-consuming task, but the amount of time that a public authority is required to spend compiling information has no bearing on whether or not that information is held.
14. The Commissioner is therefore satisfied that the public authority does hold this information and it has therefore failed to comply with its duties under section 1(1) of FOIA.

Right of appeal

15. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF