

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 February 2023

Public Authority: Bolton Council
Address: Victoria Square
Bolton
BL1 1RU

Decision (including any steps ordered)

1. The complainant requested information from Bolton Council ("the Council") about the sale of Council properties to the housing association, Bolton at Home, specifically about how the properties were valued. The Council refused to provide the requested information citing section 12(1) (cost limit) of FOIA as its basis for doing so.
2. The Commissioner's decision is that the Council is entitled to rely on section 12(1) (cost limit) to refuse to provide the requested information. He also finds that the Council met its obligations under section 16(1) of FOIA.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 22 April 2022, the complainant wrote to the Council and requested information in the following terms:

"In my previous request Re: Sale of properties to Bolton At Home:

[link to previous request]

It was stated that the figure paid to acquire the properties was approximately £8.5 million. I would like to know:

- 1) How many properties did Bolton At Home acquire for this fee?

Their website states that, today, they manage 18,000 properties, with the majority of those being purchased from Bolton Council in 2011. £8.5 million for 18,000 properties equates to a valuation of approximately £470 per property, which is absurd. For that reason I would like to request:

- 2) Any and all information and/or documents that are available under the FOI act, that pertain to this sale. Information including, but not limited to:

a) Which person(s) negotiated this sale on behalf of the council.

b) Which person(s) were responsible for the valuation.

c) How this valuation was determined.

d) Which person(s) "signed off" on this deal.

e) Any and all information, documents, contracts, records or communication that can be provided in relation to the handling, management, negotiation, valuation and sale of the properties."

5. The Council responded on 24 May 2022. It refused to provide the requested information citing both the commercial interests exemption under section 43(2) of FOIA and the cost limit under section 12(1) of FOIA as its basis for doing so. It upheld this position at internal review.

Reasons for decision

Section 12 - cost of compliance

6. This reasoning covers whether the Council is entitled to rely on section 12(1) of FOIA to refuse to provide the requested information.
7. Section 12(1) of FOIA states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate cost limit. The appropriate limit for the public authorities such as the Council is £450. As the cost of complying with a request must be calculated at the rate of £25 per hour, section 12(1) effectively imposes a time limit of 18 hours for the Council.
8. A public authority can only take into account the cost it reasonably expects to incur in carrying out the following permitted activities in complying with the request:
 - determining whether the information is held
 - locating the information, or a document containing it
 - retrieving the information, or a document containing it
 - and extracting the information from a document containing it
9. In its submissions to the Commissioner, the Council explained that due to the age of the project the information is mostly held in paper files and emails rather than databases or case management systems.
10. The Council provided the following explanation as to how it has estimated that the time taken to comply with the request would exceed 18 hours:

“Paper files are stored with an external provider known as Oasis and a search on the term “Bolton at Home” found 107 results. Of these, 12 -13 boxes looked to be of more relevance than the remainder. Each of those boxes are estimated to contain between 1000 and 1500 pieces of paper documentation. The boxes would need to be retrieved from Oasis or the contents scanned in by them and then read through to ascertain if there was anything of relevance to the applicant’s request. There may also be other documentation such as emails still held on the Council’s network and back up servers. It is estimated that just to read through the archived material would take around 20 to 25 hours in respect of each of the 10+ boxes.”

11. Taking the Council's lower estimates of 20 hours per box and 12 boxes, the Council therefore estimates the time to comply with the request would be at least 240 hours.
12. Taking the maximum estimated time per box of 25 hours and the lower estimate of 1000 pieces of documentation per box gives the maximum time the Council has estimated per document as 1.5 minutes.
13. The Commissioner considers the Council's estimate of 1.5 minutes to review each of the documents for information within the scope of the request and extract the requested information to be reasonable.
14. The Commissioner's decision is that the Council estimated reasonably that the cost of complying with the request would exceed the appropriate limit. Therefore, the Council is entitled to apply section 12(1) of FOIA to refuse the request.
15. As the Council is entitled to apply section 12(1) of FOIA to refuse the request the Commissioner has not gone on to consider the commercial interests exemption under section 43(2) of FOIA. He has, however, gone on to consider whether the Council has complied with section 16 of FOIA.

Section 16 – advice and assistance

16. Section 16(1) of FOIA provides that a public authority should give advice and assistance to any person making an information request. Section 16(2) clarifies that, providing an authority conforms to the recommendations as to good practice contained within the section 45 code of practice¹ in providing advice and assistance, it will have complied with section 16(1).
17. The Council argues that it has met the requirements of section 16(1) by providing some of the information within the scope of the request. During the course of the Commissioner's investigation the Council disclosed some information within scope of the request. It disclosed the figure requested in part 1 of the request and information requested in part 2(d) of the request. It also disclosed a 43 page report entitled "The Future of Bolton's Council Housing", from 2010 about the proposal to transfer the Council's housing stock to Bolton at Home which includes information within the scope of part 2(c) of the request.

¹ <https://www.gov.uk/government/publications/freedom-of-information-code-of-practice>

18. In this particular case, the Commissioner's view is that due to the volume of information held which may be in scope and the labour intensity of the process for searching paper records there is no meaningful advice and assistance the Council could have reasonably provided to the complainant regarding reforming or re-focussing their request to bring it under the cost limit other than specifying the information it has disclosed as outlined in the paragraph above.
19. The Commissioner's decision is therefore that the Council has complied with section 16(1) of FOIA.

Right of appeal

20. 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

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

21. 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.
22. 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

Victoria James
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
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Cheshire
SK9 5AF