

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

### **Decision notice**

**Date:** 15 July 2024

**Public Authority:** Reading Borough Council  
**Address:** Civic Offices  
Bridge Street  
Reading  
RG1 2LU

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

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1. The complainant has requested information relating to mental health needs assessment surveys carried out by Reading Borough Council (“the council”). The council disclosed some information to the complainant, but said that it does not hold the majority of the information. The complainant disputed that that was the case.
2. The Commissioner’s decision is that the council was not correct to say that it does not hold any further information falling within the scope of the request. He has decided that the council does hold information in respect of one part of the request, and that it has misconstrued other parts of the request.
3. The Commissioner therefore requires the council to take the following steps:
  - to disclose the information falling within part 7 of the request, (as outlined in paragraph 25 of this decision notice), and,
  - to reconsider and respond to a part 1-6 of the request again as required by section 1 of FOIA, (as outlined in paragraphs 26-28 of this decision notice).

4. The public authority must take these steps within 30 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 22 November 2023, the complainant wrote to the council making a number of requests for information relating to mental health surveys carried out by the council. The request is provided in the annex to this decision notice.
6. The council provided its response on 15 January 2024 and provided some of the requested information. However, it said that other information was not held by it, and that some information was not yet complete. The complainant requested that the council carry out an internal review on the same day.
7. Following the internal review, on 7 February 2024, the council disclosed further information and confirmed that no other information is held by it. It confirmed, however, that it was withholding draft copies of the reports requested by the complainant on the basis that section 22 of FOIA applied.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 9 February 2024 to complain about the way their request for information had been handled.
9. The complainant argues that the council has failed to respond to some parts of their request. In particular:
  1. In the year 2022/23 for all classifications:  
how many individuals had received support from RBC for a time band [0..1],[1..2],[2..5], [5..10], [10..15], [15..20], >20 years?
  2. What was the allocated annual budget in: 2015-16, 2018:19, 2019-20,2020-21,2021-22,2022-23?
  3. What was the actual spend for the same years?
  4. For each classification band:
    - i. how many individuals were supported?
    - ii. how many support hours a week per individual did the authority typically provide?

5. What proportion of the support hours were provided internally?
  6. What proportion of the support hours were provided by external contractors?
    - i. for the budget year 2017/18
    - ii. for the budget year 2022/23
  7. Separately for each group, how many service users and how many service user supporters completed the survey?
  8. Please provide a copy of RBC's policy/ service guidelines prior to the survey.
  9. What was the
    - iii. projected cost?
    - iv. projected man-hours required?
    - v. final report delivery date?
  10. When the project was approved."
  11. Please provide a copy of the final project requirements document.
  12. Please provide a copy of the final projects design document."
10. The Commissioner considers that the scope of his investigation is to determine whether the council was correct to say that it holds no further information falling within the scope of the above requests.

## Reasons for decision

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### **Section 1(1) – is further information held by the council**

11. Section 1(1) of FOIA requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If it does hold relevant information, it also requires that it communicates the information to the requestor, subject to any exclusions or exemptions applying.
12. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
13. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information/further information is held.

14. In such cases, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to search for relevant information, and will take into account any other reasons offered by the public authority to explain why the information is not held. Finally, he will consider any reason why it is inherently likely or unlikely that information is not held.

#### The complainant's position

15. The complainant argues that the council has not provided the information highlighted in paragraph 9.

#### The council's position

16. The council explained that the majority of the information which the complainant has requested is not held by it as it carried out the surveys in a 'business as usual' capacity. No separate budget was provided, and no hours have been recorded as being specifically spent on the project. Council officers simply carried out the work without specifying and recording their time on the project separately. As a result, no salaries specific to the survey are held by it as this falls within their normal salaries. It said that it does not hold separate information on the council's spending on the project for the same reasons; it did not record the officer hours spent on the project separately.
17. It confirmed that no external contractors were employed on the project, and that no policy or service guidelines are held by it.
18. The council explained that, in respect of the searches it carried out to locate relevant information, staff leading the project were asked about the activity and work to date, and line managers scrutinised the information that has been brought together so far.
19. As regards parts 11 and 12 of the request, the council clarified to the complainant that the reports are still in draft form and so no final copies are currently held by it. Although in its review response it sought to apply section 22 to copies of the draft reports, this was not the information requested by the complainant. In his internal review, the complainant simply asked the council to provide him with a date by which the final reports would be completed, and for the council to provide its commitment that it would provide him with copies as soon as they are.
20. The council has confirmed to the Commissioner that there is no set date for publication, however it said that it was hoping to have a draft ready by the end of June 2024 and then to publish later in the summer. It said, however, that its current plans to complete and then publish these

is dependent on its very limited capacity. The Commissioner understands by this that its intended timeline for publication may slip dependent upon other commitments which arise for its workforce.

21. The FOI Act relates to information which is held at the time that the request is received. The Commissioner is therefore unable to require the council to commit to it providing the complainant with copies of the final reports as this is not information currently held by it in recorded form. However, he notes the council's stated intention to publish the reports once finalised.
22. It clarified that, in respect of part 1 of the request, no support has been provided to individuals as a result of the surveys as they were held as part of an intelligence gathering exercise.
23. It provided the Commissioner with the figures requested in part 7 of the request, but did not say that it had now disclosed these figures to the complainant.

#### The Commissioner's analysis

24. The Commissioner has considered the arguments of both parties.
25. The Commissioner notes that the council provided him with information in relation to question 7, as outlined in paragraph 9 above, which it has not provided to the complainant. As no exemption has been applied by the council, he therefore requires it to disclose this information to the complainant.
26. Additionally, as regards part 1–6 of the requested information (as outlined in paragraph 9 above), the council responded to the Commissioner stating that no information was held as the surveys were part of an intelligence gathering exercise. The Commissioner notes, however, that the requests do not relate to the survey. They are requests for statistical information relating to the provision of the relevant support services provided by the council over a period of time prior to the surveys.
27. The Commissioner therefore considers that the council's response does not respond to these parts of the complainant's request.
28. The Commissioner therefore requires the council to reconsider its response to parts 1-6 again, and to respond to the complainant again as required by section 1 of FOIA.
29. As regards the remaining parts of the request, the council has confirmed to the Commissioner that it asked the relevant team to search the information which is held for any of the information requested. It

confirmed that no information is held by it, and has fully explained why that is the case.

30. Whilst the complainant believes that the information they requested will be held by the council, it has confirmed that the surveys were an intelligence gathering exercise and that the project is being undertaken as part of its normal course of business. Therefore, detailed information such as that requested by the complainant has not been recorded as the work is undertaken by its officers during their general day-to-day work.
31. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
32. On this basis the Commissioner has concluded that, on the balance of probabilities, the requested information is not held.

## **Procedural matters**

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### **Section 10(1) - Time for compliance with request**

33. Section 10(1) requires that a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt.
34. The complainant made his request for information on 22 November 2023. The council did not provide its response to the request, disclosing some of the requested information, until 15 January 2024.
35. The Commissioner has therefore decided that the council did not comply with the requirements of section 10(1) when responding to the request for information.

## **Right of appeal**

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36. 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)

37. 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.
38. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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

## Annex

In the summer of 2023 Reading Borough Council invited residents to complete a survey

“we would like to hear about your experience of mental health and wellbeing in Reading”

either as a service user or as supporter/s of a service user.  
What was the purpose of the survey?

How does RBC classify “mental health” service users?

Please provide a brief general description of the support provided by the RBC.

In the year 2022/23 for all classifications:  
how many individuals had received support from RBC for a time band  
[0..1],[1..2],  
[2..5], [5..10], [10..15], [15..20], >20 years?

What was the allocated annual budget in  
2015-16, 2018:19, 2019-20,2020-21,2021-22,2022-23?

what was the actual spend for the same years?

For each classification band:

how many individuals were supported?

how many support hours a week per individual did the authority typically provide?

what proportion of the support hours were provided internally?

what proportion of the support hours were provided by external contractors?  
for the budget year 2017/18  
for the budget year 2022/23

separately for each group, how many service users and how many service user supporters completed the survey?

Please provide a copy of RBC's policy/ service guidelines prior to the survey.

Who were the intended recipients of the final report?

Who sponsored the project (grade and job title)?



To whom was the final report delivered (sponsor and other identified stakeholders )?

What was the projected cost?  
projected man-hours required?  
final report delivery date?  
when the project was approved.

On completion what was the actual:  
cost?  
Man-hours taken?  
final report delivery date?

If the investigation used some external resources please identify for each external resource: the provider and cost incurred.

Please provide a copy of the final project requirements document.

Please provide a copy of the final projects design document.

Please provide the final report.

Please provide collated, anonymised survey responses if they are not included in an appendix to the final report (number of responses in each class, by service user or supporter).

Please provide the: conclusions, future recommended action if they are not explicit in the final report (including appendices).

Please provide the date/s of all Council and (identified) sub-committee meetings where the final report was provided.

Please provide a copy of the updated policy/service guidelines prompted by the analysis of the survey responses.

Please identify the updated role of the local authority in its participation in the Integrated Care System as informed by the results of the survey.

Was the survey informed by discussion with Berkshire Healthcare Foundation prior to design and implementation?

How have RBC used the survey results in subsequent "conversations" with Berkshire Healthcare to clarify the service provider roles of the NHS and local authority in supporting residents with mental health and wellbeing care needs?