

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 11 April 2013

**Public Authority:** London Borough of Tower Hamlets  
**Address:** Town Hall  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG

### Decision (including any steps ordered)

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1. The complainant requested information about the London Borough of Tower Hamlet's responsibility for ensuring the protection of rights under the Human Rights Act 1998 is afforded to those nominated for tenancies. The London Borough of Tower Hamlets (the 'Council') said that it did not hold any information that would answer the request.
2. The Information Commissioner (the 'Commissioner') has decided that the Council, on the balance of probabilities, does not hold any recorded information pursuant to the request. The Commissioner therefore does not require the Council to take any steps.

### Request and response

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3. On 29 June 2012 the complainant wrote to the Council via the *WhatDoTheyKnow.com* website and requested information in the following terms:

*"What responsibility does the Council have for ensuring the protection of rights under the Human Rights Act 1998, section 6(1) are afforded to persons (and their families) who are nominated for tenancies to East End Homes and other similar bodies.*

*In the case of complaint or evidence of any action by such a body which would be a breach of s6(1) were it a public body in the*

*terms of the Act, what is the responsibility of the Council?"*

4. The Council responded on 27 July 2012. It stated that it did not hold the requested information.
5. The complainant requested an internal review on 29 September 2012. Following its internal review the Council wrote to the complainant on 5 November 2012. It stated that it did not hold any written policy or statement in any format which specifically answers the questions in the complainant's request.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 4 December 2012 to complain about the way his request for information had been handled. In this case, the Commissioner's remit is to consider whether the Council holds, on the balance of probabilities, any recorded information pursuant to the request.

### **Reasons for decision**

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7. Section 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."
8. The task for the Commissioner here is to determine whether, on the balance of probabilities, the Council holds any further information relevant to the request which it has not disclosed to the complainant. Applying the civil test of the balance of probabilities is in line with the approach taken by the Tribunal when it has considered the issue of whether information is held in past cases.
9. At the outset of his investigation, the Commissioner asked the Council about the searches it had carried out for information falling within the scope of the requests and why these searches would have been likely to retrieve all relevant information.
10. In reply, the Council confirmed that it had conducted a further search at the internal review stage for information which potentially contained a

direct reference to Human Rights and Lettings. It found three documents, namely the Common Housing Register Partnership Lettings Policy, Terms of Reference for its Housing Forum and Executive, and the agreement for a Common Housing Register, copies of which it forwarded to the Commissioner.

11. Having searched the documents both manually and electronically using 'Human Rights' as the key search term, the Council found no reference to it. The Commissioner has examined the documents and has not found any reference to the HRA.
12. The Council stated it has no reason to believe that any contract or other documents between it and registered providers of Social Housing would be likely to have, or be required by law to have, explicit reference to the HRA. The Council also pointed out that there is a requirement for it to comply with other laws and that these are not required to be specified in its documents, contracts and agreements. For this reason, it said it considered that the Commissioner's search-related questions about the retention and deletion of records associated with the requested information were not relevant.
13. On the balance of probabilities, the Commissioner has concluded that the Council does not hold any recorded information relevant to the complainant's request.

## Right of appeal

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14. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

15. 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.
16. 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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**