

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 3 October 2016

**Public Authority:** Westminster City Council  
**Address:** City Hall  
64 Victoria Street  
London  
SW1E 6QP

#### Decision (including any steps ordered)

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1. The complainant has requested information concerning the closure of day services offered at a particular address by Westminster City Council (the "Council"). The Council addressed each of the questions. However with respect to one question which asked if the service specification for each of the services is a public document, the Council simply answered it is not a public document. The complainant has argued that the Council should have either provided this document or applied an exemption to the request. He has argued the Council failed to act in a helpful and open manner.
2. The Commissioner's decision is that the Council has acted in accordance with its obligations under section 1 of the FOIA. She considers the Council's interpretation of the request was reasonable and does not consider that the Council was trying to be difficult. Its response to the other questions was helpful and satisfactory. However the Commissioner considers that in accordance with the section 45 of the code of practice, the Council should have informed the complainant that he could submit a request for this document if he required a copy.
3. As the complainant did submit a further request for the document and now has a copy, the Commissioner considers there are no further steps to be taken.

## Request and response

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4. On 11 April 2016 the complainant submitted an information request to Central and North West London [CNWL] NHS Foundation Trust. On 20 April 2016, CNWL forwarded the request to the Council. The complainant asked for the following information:

*'a) We were advised that the closure of the day services at Lupus Street and St Mary's Terrace were because not enough people are using those services. Could you please advise who it is that sets the criteria for access, who assesses and who monitors the contracts?*

*b) We were informed that there is a service specification for each of the services. Is this a public document?*

*c) The presenters were not able to tell us what services are provided under the contracts but were going to commission someone to visit the services to see what services were being provided. As CNWL provides the services under contract, do you have a list of the services that are provided?*

*d) Is it correct that the buildings are owned by WCC? Are they then leased to CNWL? If so, on what terms and at what cost?*

*e) Do CNWL know what will happen to the buildings after December 2016?*

*f) The current contract ending December 2016 is paid for by Central London CCG, West London CCG and Westminster CC. Are you able to provide the contract details (length of contract, when started, fixed and variable costs for each year, how monitored, how the costs are spread between the 3 providers of funds).*

*g) When were charges for the services introduced and who is responsible for collecting these. What are the actual charges for each of the services?*

*h) How many staff from CNWL are involved in the provision of the services, what are their job roles/titles and if the services cease, what will happen to these staff.*

*i) Have the unions been consulted on the potential service changes?*

*j) The proposed replacement model is for key workers to be appointed. How many key workers does CNWL currently project will be needed and at what cost? Are these staff already trained for this role? If not, what is the training budget allocated. Could you also advise me at which CNWL board meeting was the proposed changes to the services discussed so that I can access the agenda, backing papers and minutes for that meeting.'*

5. The Council responded on 13 May 2016 and addressed each question. The complainant has complained about its response to question (b) in which it explained that the service specification is not a public document.
6. On 31 May 2016 the complainant requested an internal review with regard to this specific response. He argued the Council had not provided a copy of the service specification document but had not quoted an exemption under the FOI to support its refusal. The complainant submitted a further request for the document.
7. On 23 June 2016 the Council provided its internal review and explained that it considered the request did not ask for a copy of the service specification but asked if it is a public document.
8. The Council explained it has interpreted this request to require a 'yes' or 'no' answer and had therefore informed the complainant that the service specification is not a public document.
9. The Council considered it had acted in accordance with its obligations under section 1(1) of the FOIA. It argued it did not need to cite an exemption as none had been applied.
10. The Council confirmed that as the complainant had submitted a separate request for a copy of the service specification, it would consider disclosure of the document itself under that request.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 24 June 2016 to complain about the way part (b) of his request for information had been handled.
12. The Commissioner considers the scope of this case to be concerned with whether the Council responded to part (b) of the request in accordance with its obligations under section 1 of the FOIA.

## Reasons for decision

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13. Under section 1 of the FOIA, a public authority is required to inform an applicant whether the requested information is held, and if so to provide it, subject to any exemptions which apply. Under section 17 a public authority must issue a refusal notice in respect of any exemptions applied, giving the reasons that they are engaged.
14. In this case, at part (b) of his request, the complainant requested:  
*'We were informed that there is a service specification for each of the services. Is this a public document?'*
15. The Council interpreted this request to require an affirmative or negative answer and did not consider that this constituted a request for the service specification itself. It therefore informed the complainant that the service specification is not a public document.
16. The complainant has argued that a request asking if a particular document is a public document should be taken as a request for a copy of that document. He therefore considers that the Council failed to act in a helpful and open manner.
17. The Commissioner's guidance to interpreting and clarifying a request is relevant to this argument and can be found on our website at:  
[https://ico.org.uk/for\\_organisations/guidance\\_index/~/\\_media/documents/library/Freedom\\_of\\_Information/Practical\\_application/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf](https://ico.org.uk/for_organisations/guidance_index/~/_media/documents/library/Freedom_of_Information/Practical_application/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf)
18. The guidance explains that public authorities must interpret information requests objectively and must avoid reading into the request any meanings that are not clear from the wording. The authority must therefore answer a request based on what the requester has actually asked for, and not on what it thinks they would like, should have asked for, or would be of most use to them.
19. If the authority finds there is more than one objective reading of the request then it must go back to the requester to ask for further clarification. It should not attempt to guess which interpretation is correct.
20. Authorities are not normally obliged to look beyond the wording of the request itself when interpreting its meaning. However, if the requester refers to other correspondence, or provides additional context when making the request, the authority should take this into account if it impacts on the interpretation.

21. The guidance does go on to explain that where the meaning of a request may appear to be clear, but the background or context might suggest that the authority would better meet the requester's needs by providing different or additional information, under the section 45 code of practice the authority should provide advice and assistance to the requester.
22. Depending on the circumstances this may involve contacting the requester to help them formulate a new request that will better meet their needs.
23. In this case, the Commissioner is satisfied that the request did not ask for a copy of the service specification. She considers that it was an objective reading of the request to regard it as requiring an answer in the affirmative or negative and that the question was so clear there was no need to seek clarification.
24. The Commissioner is satisfied that as the Council was not applying an exemption to this part of the request and was not refusing to provide the requested information, it was not obliged to issue a refusal notice.
25. The Commissioner therefore considers that the Council handled this part of the request in accordance with its obligation under section 1 of the FOIA.

### **Other matters**

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26. However, in accordance with the section 45 code of practice, the Commissioner considers that in its initial response, the Council should have informed the complainant that if he required a copy of the document, he could submit a further request.
27. The complainant did make a further request and this was then progressed by the Council.

## Right of appeal

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28. 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@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

29. 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.
30. 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** .....

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