

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

### **Decision notice**

**Date:** 24 April 2018

**Public Authority:** Brighton and Hove City Council

**Address:** Kings House  
Grand Avenue  
Hove  
East Sussex  
BN3 2LS

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

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1. The complainant has requested information regarding proposals for the cladding of buildings involving flammable materials that was held at the time of the Grenfell Tower disaster. Brighton and Hove City Council provided information in response to the request however the complainant considered that further information must be held.
2. The Commissioner's decision is that on the balance of probabilities Brighton and Hove City Council does not hold further information within the scope of the request and therefore has complied with its duties under section 1(1) of the FOIA.
3. The Commissioner does not require any steps to be taken.

## Request and response

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4. On 12 September 2018, the complainant wrote to Brighton and Hove City Council ('the Council') and requested information in the following terms:

*"Following the information highlighted by the deaths of many residents of Grenfell Tower it was commendable that Brighton and Hove City Council carried out checks on the fire safety aspects of those high rise blocks in the City that have undergone cladding.*

*Could you please provide any information held by the City Council or Mears PLC with regard to proposals for cladding of buildings in Brighton and Hove at the time of the Grenfell Tower disaster that involved flammable material and details of what has been decided since?*

*I refer in particular to the proposals for St Johns' Mount and Tyson Place, of which the local community is aware, but also request details of any other buildings for which similar proposals were made or even implemented."*

5. The Council responded on 21 September 2017. It stated that *"None of the properties owned by Brighton and Hove city council have a 'cladding' system that is the same or similar to that used at Grenfell Tower. All our systems meet the fire safety requirements and are non-flammable materials. This will be the same for any future proposals for cladding of buildings owned by Brighton and Hove City Council."* It provided information regarding safety inspections undertaken since the Grenfell fire with a link to the publically available fire risk assessments. Regarding St Johns and Tyson Place it advised *"We have commissioned specifications for two options to the external repairs and we will be tendering these. Once we have undertaken the tender process we will consult with residents accordingly."*
6. The complainant requested an internal review on 22 September 2017, on the basis that the Council had not provided a proper response to his questions and that further information was held. He stated that *"Cladding of a flammable nature was proposed for St Johns Mount and Tyson Place. My request for information concerned details of what has been decided since. I further requested details of any other buildings for which similar proposals were made or even implemented."*
7. Following an internal review the Council wrote to the complainant on 17 October 2017 and upheld that *"it had provided an adequate response."*

## Scope of the case

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8. The complainant contacted the Commissioner 18 October 2017 to complain about the way his request for information had been handled. Specifically that the Council had not provided all the information it holds within the scope of the request.
9. The Commissioner considers the scope of the case to be to determine whether, on the balance of probabilities, the Council holds any further information falling within the scope of the request.

## Reasons for decision

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10. Section 1(1) of the FOIA states:

*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.*

11. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner, in accordance with a number of First Tier Tribunal decisions, applies the civil standard of the balance of probabilities.
12. The Commissioner will consider the arguments or evidence provided by the complainant explaining why they consider that the requested information must be held. The Commissioner will consider the scope, quality and thoroughness of the searches performed by the Council, and whether the searches were appropriate and adequate. She will also consider any other explanations provided by the Council to explain why the information is not held.
13. The complainant's position is that the Council haven't provided a full answer to his information request. Specifically he maintains that the Council will hold information regarding proposals that the Council had made or implemented prior to the Grenfell Fire. The complainant states that cladding of a flammable nature was proposed for St Johns Mount and Tyson Place and therefore information must also be available

regarding these proposals and decisions that have subsequently been taken.

14. The Commissioner asked the Council what searches it had undertaken and why. It explained that it had initially targeted two departments for a response, those being '*Housing Property and Investment*' and '*Building Control*'. However it was subsequently agreed that '*Building Control*' have no immediate oversight of housing maintenance and investment decisions and therefore would not hold records within the scope of the request.
15. The Council advised that electronic searches were undertaken of the Housing Strategy Department and the personal drive and email account of the "*General Building Manager responsible for the management of the relevant repairs and maintenance contracts which are within the scope of the request.*"
16. The Council explained that the Housing Strategy Department's electronic records "*were all held in easily identifiable premises files for the relevant buildings,*" therefore "*there was no need to run search queries in order to respond to this request.*"
17. The Commissioner asked whether any relevant information had been destroyed to which the Council confirmed that "*No recorded information pertaining to the current cladding, the Council's proposals for cladding or cladding strategy has been destroyed.*"
18. The Commissioner asked the Council whether proposals for cladding (that involved flammable material) were ever made for any of its buildings in Brighton and Hove. She asked the Council to ensure its answer covered proposals that it had held at the time of the Grenfell disaster. The Council responded "*The Council has at no time entertained proposals for cladding which did not meet the relevant British Standards. The cladding used is the Alsecco Brick Slip System with a mineral wool insulation.*"
19. Furthermore the Council explained that "*There has been no change with regard to the Council's proposed cladding materials following the Grenfell Fire. The Grenfell Tower was clad in ACM cladding. This type of material has not been used at any stage in Brighton and Hove.*"
20. The Council has published information on cladding and insulation including manufacturer details and product information: <http://www.brighton-hove.gov.uk/content/housing/council-housing/high-rise-cladding-insulation-and-fire-safety-information>. The

Commissioner notes that the Council provided the complainant with this webpage link as part of its response to his information request.

21. The Council gave further background to its actions: *"Following the Grenfell Tower fire, the Council carried out additional precautionary inspections of all council blocks. The work we carried out after the fire were further checks of all our high rise blocks in consultation with and with the attendance of East Sussex Fire and Rescue Service, this piece of work was undertaken to give ourselves a full update of our high rise blocks. These inspections were in addition to our regular Fire Risk Assessments."* The fire risk assessments for each block are also contained within the Council's webpage referred to in paragraph 17.

*The Commissioner's View*

22. The Commissioner is satisfied that the Council carried out adequate searches for the requested information.
23. The Commissioner considered the Council's explanations regarding why it has never held information within scope of the request. It follows that that if there has been no change to the Council's proposed cladding materials since the Grenfell Fire then the Council will not hold any information regarding previous proposals or changes to those proposals.
24. In the absence of any further evidence to support the complainant's assertion that cladding of a flammable nature was proposed for St Johns Mount and Tyson Place, the Commissioner is satisfied, that on the balance of probabilities, the Council does not hold any further information within the scope of the request.
25. Therefore in its response to the complainant, the Council has complied with its duties under section 1(1) of the FOIA.

## Right of appeal

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26. 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)

27. 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.
28. 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 .....**

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