

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 December 2022

Public Authority: Rhondda Cynon Taf County Borough Council

Address: The Pavilions
Cambrian Park
Clydach Vale
Tonypany
CF40 2XX

Decision (including any steps ordered)

1. The complainant has requested information held by Rhondda Cynon Taf County Borough Council (the Council) with regards to HMO (House in Multiple Occupation) density by ward.
2. The Council has provided the complainant with some information. However, it advised that it does not hold part of the requested information.
3. It is the Commissioner's decision that the Council does hold all of the requested information.
4. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.
 - Either provide the outstanding information held that is relevant to the request to the complainant, or issue a refusal notice that complies with section 17 of FOIA.
5. The Council must take these steps within 35 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 FOIA and may be dealt with as a contempt of court.

Request and response

6. On 2 April 2022 the complainant requested the following information from the council:

"Could you tell me the ward in RCT [the council] with the greatest density of HMOs; could you then tell me the density in that ward (i.e. the percentage of residential accommodation in that ward that are licensed HMOs); could you then tell me the number of HMOs in that ward."

7. On 5 May 2022, after a follow up email from the complainant, the Council responded stating that:

"Unfortunately, we do not record information by ward and we are unable to provide the ward density percentage. However, we can inform you that the area of Treforest has the greatest density of HMO's. At this moment in time, there are 512 HMO's in Treforest."

8. The complainant requested an internal review on 6 May 2022 saying:

"As there is a legal obligation to keep an HMO register the basic numbers are known and it should not present a serious problem to cross reference this with wards - dozens of other boroughs have done so for me.

It is not believable also that RCT don't know how many residential properties are in a ward and can't work out the density as a percentage."

9. On 9 June 2022 the Council responded to the internal review saying

"As you will appreciate, Councils differ widely in the way that they record information held by them. Following my review of this case, I have concluded that RCT Council does not record the number of residential properties in RCT by ward. Therefore, I can confirm that the Council does not hold information in the requested format."

Scope of the case

10. The complainant has argued that a large number of other public authorities have released all the information requested about licensed HMOs, and that the Council must be in a position to be able to do so.
11. The Council has provided the complainant with confirmation of the ward which has the highest density of licensed HMOs, that being Treforest. It has also confirmed the number of HMOs in that ward.

12. The Commissioner will decide if the Council holds the remaining information requested by the complainant, that being the density of licensed HMOs in Treforest as a percentage of all residential properties in that area.

Reasons for decision

13. In order to provide the information requested, the Council would need to be able to identify how many residential properties, and how many licensed HMO's, are in each of its wards. If it is able to establish this, then it should be able to compile the relevant information.
14. Whilst the Council has provided the complainant with information relating to licensed HMOs by ward, it states that it does not record the number of residential properties by ward.
15. Just because a public authority does not possess a piece of information in a particular form, it does not mean that that information is not held. It is the Commissioner's view that information will be held if the public authority holds the [building blocks](#) from which the information could be assembled.
16. The Commissioner is satisfied that the council will hold details of all residential properties in its area, at the very least for the purpose of levying council tax. Furthermore, he believes that it is reasonable to expect that if the Council holds the tools that would enable it to identify licensed HMO's by ward (it has already provided information to the complainant which supports this), then it must also have the ability to identify residential properties by ward. This information can then be used to calculate the percentage figure requested by the complainant.
17. The Commissioner concludes that the Council could, using the information it holds and the tools it has available, compile the outstanding information relevant to the request, that being the density of HMOs in Treforest as a percentage of all residential properties in that area.
18. The Commissioner has therefore decided that the Council does hold the information requested by the complainant, and that it has failed to comply with its duties under section 1(1) of FOIA.

Right of appeal

19. 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

20. 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.
21. 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

Ben Tomes
Group Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF