

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 13 March 2023

Public Authority: Royal Borough of Kensington and Chelsea
Address: The Town Hall
Hornton Street
London
W8 7NX

Decision (including any steps ordered)

1. The complainant has requested information from the Royal Borough of Kensington and Chelsea ("the Council") in relation to a job role they applied for in 2021. The Council explained that the requested information is not held.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold the requested information.
3. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

4. On 6 December 2022, the complainant wrote to the Council and requested information in the following terms:

"I submitted an employment tribunal claim because of being discriminated against my race, supplemented by my disability and age during the application process for an Adult Social Worker's role [role number] at the Royal Borough of Kensington and Chelsea (RBKC), which took place in spring 2021.

To present my case to the Employment Tribunal I require the following information:

1. Please provide me with notes made by the panel on the interviews of all successful applicants who applied for the same role as I, as far as this information is available. In case these notes are no longer available, please explain the reason behind of it in each case.
2. Please provide me with notes made by the panel on the interviews of all unsuccessful applicants who applied or the same role as I, as far as this information is available. In case these notes are no longer available, please explain the reason behind of it in each case.
- 3 Please provide me with details of the ethnic origin, nationality, age and disability relevant to each candidate case where interview notes are available to be provided.
4. Please provide me with model answers and scoring plan specifically developed to carry out interviews for the role I applied for. In case these were not developed specifically for the role I applied for, please state it clearly in your response (please do not send me the requested information for a different role)."
5. The Council responded on 5 January 2023. It advised for points 1 and 2, the information is only held for 6 months and, as such, had already been disposed of. For point 3, it advised that the complainant had made a similar request for information which it had previously answered and the previous response still remains; it contains personal information and therefore section 40(2) of FOIA applies. For point 4, the Council explained that the information is not saved post-interview and, as such, it had already been disposed of.
6. Following an internal review the Council wrote to the complainant on 9 February 2023. It stated that it upheld its original position. However, it acknowledged that the complainant had not previously asked a similar question to point 3. It explained that the information requested in point 3 is not held as it is disposed of after 6 months; however, if the information were held, it would be personal information and section 40(2) would apply.

Reasons for decision

7. This reasoning covers whether the Council is correct when it says that it does not hold the information the complainant requested.

8. Section 1(1) FOIA provides 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."*

- 9. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
- 10. The Council has explained that all the information the complainant has requested is only held for a period of 6 months following the interview process. As the request has been made more than 6 months after the interview process, the information has already been disposed of.
- 11. The Commissioner is satisfied that it is reasonable that the Council would only retain such information for 6 months and, as such, on the balance of probabilities, the information was not held at the time of the request.

Right of appeal

12. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

13. 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.
14. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF