

**James McLaughlin**

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**From:** Freedom Of Information  
**Sent:** 11 July 2016 08:05  
**To:** Housing FOI's; [REDACTED]  
**Subject:** foi6653: Freedom of Information Request

**Categories:** Egress Switch: Unprotected

We have received the following Freedom of Information request. We are required to respond to this by August 2016 .

**Please obtain approval of response from your Head of Service and then forward this to [freedomofinformation@brighton-hove.gov.uk](mailto:freedomofinformation@brighton-hove.gov.uk)**

FOI advice and guidance is available on the Wave, please visit [Information Governance](#)

The request is as follows:

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similiar basis?

Yours faithfully,

[REDACTED]

Many thanks.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 29 [REDACTED]

**James McLaughlin**

---

**From:** Wendy Kassamani  
**Sent:** 08 September 2016 10:06  
**To:** [REDACTED]  
**Subject:** URGENT QUERY: foi6653: RESPONSE PROVIDED  
**Importance:** High  
**Categories:** Egress Switch: Unprotected

Hi Nadia

[REDACTED] is showering us with requests for internal reviews etc. We provided a response to his request (6653) but he emailed back the following below. This was filed since it was not considered a formal request for a review. He is now chasing for our response. Are you able to provide a response to his comments on the BHCC/Mears contract (re. FOI responses apparently included under S26 of the Contract) ?

Thank you for any help you can provide.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 24 July 2016 12:19  
**To:** Freedom Of Information  
**Subject:** Re: foi6653: RESPONSE PROVIDED

Dear Freedom Of Information,

I have marked this 'information not held' but I note from section 26 "Freedom of Information" of the contract between Mears and the council that Mears and its sub-contractors have 5 days to respond to requests.

Thus, the reply I have received seems somewhat disingenuous. The council needs to ask Mears to provide the information I originally requested.

Yours sincerely,

[REDACTED]

-----Original Message-----

Please find set out below the information in response to the above request:

## FOI6653 Response

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

The council does not hold this information. The information will be held by Mears and/or their contractors.

Should you have any further queries about this request, please contact us via email to [1][Brighton and Hove City Council request email] quoting the reference number given above.

If you are not satisfied with the handling of your request, you can appeal (Internal Review) within 2 months of the completed FOI. Write to:

### Freedom of Information Appeals

Brighton & Hove City Council

ICT 4th Floor

Kings House

Grand Avenue

Hove BN3 3LS

[2][Brighton and Hove City Council request email]

If you are still not satisfied after your Internal Review has been investigated, you can escalate your complaint to the Information Commissioners Office. The contact details are:

The Information Commissioners Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

Helpline: 0303 123 1113 (local rate) or 01625 545 745 (national rate)

e-mail: [3][email address]

Website: [4]www.ico.org.uk

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Thank you in anticipation of your co-operation.

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#### References

##### Visible links

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3. [mailto:\[email address\]](mailto:[email address])
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## James McLaughlin

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**From:** Freedom Of Information  
**Sent:** 15 July 2016 10:53  
**To:** [REDACTED]; Anne Cameron  
**Subject:** RESPONSE QUERY : foi6653: Freedom of Information Request unclassified

**Categories:** Egress Switch: Unprotected

Hi Anne – have discussed this with Nadia and have confirmed with her that Mears is contracted by BHCC to carry out certain works – we do not however pay or stipulate contract conditions for the employees of Mears. If you agree I think we can respond with:

“BHCC do not hold this information.”

Can you please confirm ?

Thank you.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 29[REDACTED]

---

**From:** [REDACTED]  
**Sent:** 15 July 2016 10:39  
**To:** Freedom Of Information; Anne Cameron  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Wendy/ Anne,

The council don't hold this information- this would be held by Mears.

Are we able to say “The Council does not hold this information” or do we need to elaborate, i.e. specific information on the employers of Mears is held by Mears and or their sub-contractors?

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] Brighton & Hove  
City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Glyn Huelin  
**Sent:** 12 July 2016 4:44 PM  
**To:** [REDACTED]  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Hi [REDACTED],

The council does not hold this information. Providing Martin is happy with that can we ask the FOI team to draft a response as such. We may want to raise with Mears as a separate issue.

Thanks,

Glyn Huelin | Business & Performance Manager | Housing | (01273) 29[REDACTED] | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** [REDACTED]  
**Sent:** 12 July 2016 15:45  
**To:** Glyn Huelin  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Glyn,

Please can you draft a response to this request, returning to me by 25 July.

Thanks

---

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

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**From:** Housing FOI's  
**Sent:** 11 July 2016 11:14  
**To:** [REDACTED]  
**Cc:** Housing FOI's  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi [REDACTED]

Please see the FOI below. Can I have a response drafted and returned to the Housing FOI's inbox by 28 July 2016 for approval by Head of Service. Please let me know if any problems or if the FOI is not for you.

Kind Regards

[REDACTED] | PA to Tracy John | Head of Housing | (01273) 29[REDACTED] | Brighton & Hove City Council | Housing Centre, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL



We will be easy to reach



We will be clear and treat you with respect



We will listen and act to get things done

---

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**Sent:** 11 July 2016 8:05 AM  
**To:** Housing FOI's; [REDACTED]  
**Subject:** foi6653: Freedom of Information Request

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Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

Yours faithfully,

[Redacted signature]

Many thanks.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [Redacted phone number]



To: Glyn Huelin; [REDACTED]  
Cc: Wendy Kassamani  
Subject: RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

I will have a look and draft something to send. I agree with Glyn it looks as though he is not too clear on "held for the purpose of the Act"

Anne

-----Original Message-----

From: Glyn Huelin  
Sent: 12 September 2016 11:31  
To: [REDACTED]  
Cc: Wendy Kassamani; Anne Cameron  
Subject: RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Hi [REDACTED],

I don't really know how to answer this and whether the FOI even applies. I think we might need Anne/Wendy to advise.

My broad view is that the contractual term 26 is to ensure that the contractor provides information needed to support the council when it is answering an FOI request that it is required to respond to. I don't see that this is relevant in this case. The request is for information that we do not and would not and most likely wouldn't be expected to hold in any form so it doesn't get past that first test in my view.

Thanks,

Glyn

Glyn Huelin | Business & Performance Manager | Housing | (01273) 29 [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

From: [REDACTED]  
Sent: 08 September 2016 12:24  
To: Glyn Huelin  
Subject: FW: URGENT QUERY: foi6653: RESPONSE PROVIDED  
Importance: High

Hi Glyn,

Please can you advise on response to this query on our response provided.

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

From: Wendy Kassamani  
Sent: 08 September 2016 10:06 AM

To: [REDACTED]  
Subject: URGENT QUERY: foi6653: RESPONSE PROVIDED  
Importance: High

Hi [REDACTED]

[REDACTED] is showering us with requests for internal reviews etc. We provided a response to his request (6653) but he emailed back the following below. This was filed since it was not considered a formal request for a review. He is now chasing for our response. Are you able to provide a response to his comments on the BHCC/Mears contract (re. FOI responses apparently included under S26 of the Contract) ?

Thank you for any help you can provide.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [REDACTED]

-----Original Message-----

From: [REDACTED]  
Sent: 24 July 2016 12:19  
To: Freedom Of Information  
Subject: Re: foi6653: RESPONSE PROVIDED

Dear Freedom Of Information,

I have marked this 'information not held' but I note from section 26 "Freedom of Information" of the contract between Mears and the council that Mears and its sub-contractors have 5 days to respond to requests.

Thus, the reply I have received seems somewhat disingenuous. The council needs to ask Mears to provide the information I originally requested.

Yours sincerely,

[REDACTED]

-----Original Message-----

Please find set out below the information in response to the above request:

#### FOI6653 Response

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on

implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

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-----  
[REDACTED]

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<https://www.whatdotheyknow.com/help/officers>

For more detailed guidance on safely disclosing information, read the latest advice from the ICO:

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## James McLaughlin

---

**From:** Glyn Huelin  
**Sent:** 12 September 2016 13:26  
**To:** Anne Cameron, [REDACTED]  
**Cc:** Wendy Kassamani  
**Subject:** RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Thanks Anne, that would be great.

Glyn Huelin | Business & Performance Manager | Housing | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

**From:** Anne Cameron  
**Sent:** 12 September 2016 12:36  
**To:** Glyn Huelin, [REDACTED]  
**Cc:** Wendy Kassamani  
**Subject:** RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

I will have a look and draft something to send. I agree with Glyn it looks as though he is not too clear on "held for the purpose of the Act"

Anne

-----Original Message-----

**From:** Glyn Huelin  
**Sent:** 12 September 2016 11:31  
**To:** [REDACTED]  
**Cc:** Wendy Kassamani; Anne Cameron  
**Subject:** RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Hi [REDACTED],

I don't really know how to answer this and whether the FOI even applies. I think we might need Anne/Wendy to advise.

My broad view is that the contractual term 26 is to ensure that the contractor provides information needed to support the council when it is answering an FOI request that it is required to respond to. I don't see that this is relevant in this case. The request is for information that we do not and would not and most likely wouldn't be expected to hold in any form so it doesn't get past that first test in my view.

Thanks,

Glyn

Glyn Huelin | Business & Performance Manager | Housing | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

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Sent: 08 September 2016 12:24  
To: Glyn Huelin  
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Importance: High

Hi Glyn,

Please can you advise on response to this query on our response provided.

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

From: Wendy Kassamani  
Sent: 08 September 2016 10:06 AM  
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Importance: High

Hi [REDACTED]

[REDACTED] is showering us with requests for internal reviews etc. We provided a response to his request (6653) but he emailed back the following below. This was filed since it was not considered a formal request for a review. He is now chasing for our response. Are you able to provide a response to his comments on the BHCC/Mears contract (re. FOI responses apparently included under S26 of the Contract) ?

Thank you for any help you can provide.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [REDACTED]

-----Original Message-----

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Subject: Re: foi6653: RESPONSE PROVIDED

Dear Freedom Of Information,

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Yours sincerely,

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Please find set out below the information in response to the above request:

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## James McLaughlin

---

**From:** Anne Cameron  
**Sent:** 19 July 2016 12:58  
**To:** [REDACTED]  
**Cc:** Freedom Of Information  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Nadia apologies,

Just opened this email hope my advice not too late I have just written his up for another request here is what I wrote.

The Act covers all *recorded* information held by a public authority, if the authority retains possession of that information. What this means is that any records that we hold at the time of the request should be considered for release under the Act.

Section 3(2) of the Act sets out the two legal principles that establish whether information is held for the purposes of FOIA.

*Section 3.*

*(2) For the purposes of this Act, information is held by a public authority if—  
(a) it is held by the authority, otherwise than on behalf of another person, or  
(b) it is held by another person on behalf of the authority.*

Essentially this means that when a public authority holds information solely on behalf of another person it does not hold the information itself for FOIA.

There is much more information on what is covered by the Act on the Information Commissioners Office (ICO) website

Hope this helps.

Anne

**Anne Cameron** | Data Protection Manager (Information Governance Team) | 4th Floor | Kings House | Grand Avenue | Hove | BN3 3LS | Tel: 01273 [REDACTED] | Mobile: 07827 880772 | Information Security: x5959 | Email: [anne.cameron@brighton-hove.gov.uk](mailto:anne.cameron@brighton-hove.gov.uk)

Safe  Secure

Click [here](#) to read our Information Governance policies on the Wave

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**Sent:** 15 July 2016 10:39 AM  
**To:** Freedom Of Information; Anne Cameron  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

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Thanks

~~██████████~~ | Management & Project Support Officer | Property & Investment | (01273) ~~██████████~~ | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

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**Sent:** 12 July 2016 4:44 PM  
**To:** Nadia Wibley  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

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Glyn Huelin | Business & Performance Manager | Housing | (01273) ~~██████████~~ | ~~██████████~~ | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

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**Sent:** 12 July 2016 15:45  
**To:** Glyn Huelin  
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Hi Glyn,

Please can you draft a response to this request, returning to me by 25 July.

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Nadia Wibley | Management & Project Support Officer | Property & Investment | (01273) ~~██████████~~ | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

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**To:** ~~██████████~~  
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**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Nadia

Please see the FOI below. Can I have a response drafted and returned to the Housing FOI's inbox by 28 July 2016 for approval by Head of Service. Please let me know if any problems or if the FOI is not for you.

Kind Regards

~~██████████~~ | PA to Tracy John | Head of Housing | (01273) ~~██████████~~ | Brighton & Hove City Council | Housing Centre, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL



We will be easy to reach



We will be clear and treat you with respect



We will listen and act to get things done

**From:** Freedom Of Information

**Sent:** 11 July 2016 8:05 AM

**To:** Housing FOI's; [REDACTED]

**Subject:** foi6653: Freedom of Information Request

We have received the following Freedom of Information request. We are required to respond to this by August 2016.

**Please obtain approval of response from your Head of Service and then forward this to [freedomofinformation@brighton-hove.gov.uk](mailto:freedomofinformation@brighton-hove.gov.uk)**

FOI advice and guidance is available on the Wave, please visit [Information Governance](#)

The request is as follows:

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

Yours faithfully,

[REDACTED]

Many thanks.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 22 [REDACTED]

## James McLaughlin

---

**From:** Katie Rees  
**Sent:** 03 November 2016 15:56  
**To:** Wendy Kassamani  
**Subject:** RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Hi Wendy,

I have sent this on to [REDACTED] and have logged on our Internal Appeals page

Many thanks

Katie Rees  
Information Governance Officer  
Brighton & Hove City Council

-----Original Message-----

From: Anne Cameron  
Sent: 03 November 2016 1:21 PM  
To: Wendy Kassamani  
Cc: Glyn Huelin, [REDACTED], Katie Rees  
Subject: RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Sorry everybody I was off ill.....

Katie is doing the draft and it should be with you for approval today.

Anne

Anne Cameron | Data Protection Manager (Information Governance Team) | 4th Floor | Bartholomew House | Bartholomew Square | Brighton | BN1 1JP | Tel: 01273 251[REDACTED] | Mobile: 0[REDACTED] | Information Security: x5959 | Email: anne.cameron@brighton-hove.gov.uk

[Click here to read our Information Governance policies on the Wave](#)

-----Original Message-----

From: Wendy Kassamani  
Sent: 01 November 2016 9:33 AM  
To: Anne Cameron  
Cc: Glyn Huelin, [REDACTED]  
Subject: URGENT QUERY: foi6653: RESPONSE PROVIDED  
Importance: High

Morning,

[REDACTED] is chasing for his response: (Email trail below explains)

"Dear Freedom Of Information,

Is anyone going to respond to this - it is very overdue.

Yours sincerely,

[REDACTED]

Thank you.

Wendy Kassamani | Information Governance Officer (Information Governance Team) | 4th Floor | Bartholomew House | Bartholomew Square | Brighton | BN1 1JE | Tel: 01273 [REDACTED] | Information Security: x5959 | Email: wendy.kassamani@brighton-hove.gov.uk

-----Original Message-----

From: Glyn Huelin  
Sent: 12 September 2016 13:26  
To: Anne Cameron, [REDACTED]  
Cc: Wendy Kassamani  
Subject: RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Thanks Anne, that would be great.

Glyn Huelin | Business & Performance Manager | Housing | (01273) [REDACTED] | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

From: Anne Cameron  
Sent: 12 September 2016 12:36  
To: Glyn Huelin, [REDACTED]  
Cc: Wendy Kassamani  
Subject: RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

I will have a look and draft something to send. I agree with Glyn it looks as though he is not too clear on "held for the purpose of the Act"

Anne

-----Original Message-----

From: Glyn Huelin  
Sent: 12 September 2016 11:31  
To: [REDACTED]  
Cc: Wendy Kassamani; Anne Cameron  
Subject: RE: URGENT QUERY: foi6653: RESPONSE PROVIDED

Hi [REDACTED]

I don't really know how to answer this and whether the FOI even applies. I think we might need Anne/Wendy to advise.

My broad view is that the contractual term 26 is to ensure that the contractor provides information needed to support the council when it is answering an FOI request that it is required to respond to. I don't see that this is relevant in this case. The request is for information that we do not and would not and most likely wouldn't be expected to hold in any form so it doesn't get past that first test in my view.

Thanks,

Glyn

Glyn Huelin | Business & Performance Manager | Housing | (01273) 29 3336 | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

From: [REDACTED]  
Sent: 08 September 2016 12:24  
To: Glyn Huelin  
Subject: FW: URGENT QUERY: foi6653: RESPONSE PROVIDED  
Importance: High

Hi Glyn,

Please can you advise on response to this query on our response provided.

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

-----Original Message-----

From: Wendy Kassamani  
Sent: 08 September 2016 10:06 AM  
To: [REDACTED]  
Subject: URGENT QUERY: foi6653: RESPONSE PROVIDED  
Importance: High

Hi Nadia

Mr Croydon is showering us with requests for internal reviews etc. We provided a response to his request (6653) but he emailed back the following below. This was filed since it was not considered a formal request for a review. He is now chasing for our response. Are you able to provide a response to his comments on the BHCC/Mears contract (re. FOI responses apparently included under S26 of the Contract) ?

Thank you for any help you can provide.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [REDACTED]

-----Original Message-----

From: [REDACTED]  
Sent: 24 July 2016 12:19



To: Freedom Of Information  
Subject: Re: foi6653: RESPONSE PROVIDED

Dear Freedom Of Information,

I have marked this 'information not held' but I note from section 26 "Freedom of Information" of the contract between Mears and the council that Mears and its sub-contractors have 5 days to respond to requests.

Thus, the reply I have received seems somewhat disingenuous. The council needs to ask Mears to provide the information I originally requested.

Yours sincerely,



-----Original Message-----

Please find set out below the information in response to the above request:

#### FOI6653 Response

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

The council does not hold this information. The information will be held by Mears and/or their contractors.

Should you have any further queries about this request, please contact us via email to [1][Brighton and Hove City Council request email] quoting the reference number given above.

If you are not satisfied with the handling of your request, you can appeal (Internal Review) within 2 months of the completed FOI. Write to:

Freedom of Information Appeals

Brighton & Hove City Council

ICT 4th Floor

Kings House

Grand Avenue

Hove BN3 3LS

[2][Brighton and Hove City Council request email]

If you are still not satisfied after your Internal Review has been investigated, you can escalate your complaint to the Information Commissioners Office. The contact details are:

The Information Commissioners Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

Helpline: 0303 123 1113 (local rate) or 01625 545 745 (national rate)

e-mail: [3][email address]

Website: [4][www.ico.org.uk](http://www.ico.org.uk)

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Please consider the environment, only print out this email if absolutely necessary.

Please Note: Both incoming and outgoing Emails may be monitored and/or recorded in line with current legislation.

**References**

**Visible links**

1. [mailto:\[Brighton and Hove City Council request email\]](mailto:[Brighton and Hove City Council request email])
2. [mailto:\[Brighton and Hove City Council request email\]](mailto:[Brighton and Hove City Council request email])
3. [mailto:\[email address\]](mailto:[email address])
4. <http://www.ico.org.uk/>

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Please use this email address for all replies to this request:

~~\_\_\_\_\_~~

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<https://www.whatdotheyknow.com/help/officers>

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<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

---

**James McLaughlin**

---

**From:** Freedom Of Information  
**Sent:** 08 September 2016 10:10  
**To:** [REDACTED]  
**Subject:** FOI6653 QUERY ON RESPONSE PROVIDED

**Categories:** Egress Switch: Unprotected

Good morning

Please accept our apologies for the delay in our response to your further query. An urgent reminder has been sent to the department concerned and we shall respond as quickly as possible.

Thank you.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 29 [REDACTED]

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 08 September 2016 09:42  
**To:** Freedom Of Information  
**Subject:** Internal review of Freedom of Information request - Zero hour workers

Dear Brighton and Hove City Council,

Please pass this on to the person who conducts Freedom of Information reviews.

I am writing to request an internal review of Brighton and Hove City Council's handling of my FOI request 'Zero hour workers'.

I have not been answered in the time scale allowed.

A full history of my FOI request and all correspondence is available on the Internet at this address:  
[https://www.whatdotheyknow.com/request/zero\\_hour\\_workers](https://www.whatdotheyknow.com/request/zero_hour_workers)

Yours faithfully,

[REDACTED]

-----  
Please use this email address for all replies to this request:

[REDACTED]

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<https://www.whatdotheyknow.com/help/officers>

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## James McLaughlin

---

**From:** Glyn Huelin  
**Sent:** 19 July 2016 16:43  
**To:** [REDACTED], Anne Cameron  
**Cc:** Freedom Of Information  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Hi [REDACTED],

I think this is helpful but I'm not sure it applies in this case as we don't have the information. I think it would be clearest if we just say "The council does not hold this information".

Thanks,

Glyn Huelin | Business & Performance Manager | Housing | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** [REDACTED]  
**Sent:** 19 July 2016 15:40  
**To:** Anne Cameron; Glyn Huelin  
**Cc:** Freedom Of Information  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Hi Anne,

Thanks for this.

I think we don't actually hold the information as this is Mears information, not the councils.

Glyn- are you happy with below response Anne has provided, subject to Martin's approval?

We could start of by saying "The Council does not hold this information" and then add in information from Anne following this?

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Anne Cameron  
**Sent:** 19 July 2016 12:58 PM  
**To:** [REDACTED]  
**Cc:** Freedom Of Information  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Nadia apologies,

Just opened this email hope my advice not too late I have just written his up for another request here is what I wrote.

The Act covers all *recorded* information held by a public authority, if the authority retains possession of that information. What this means is that any records that we hold at the time of the request should be considered for release under the Act.

Section 3(2) of the Act sets out the two legal principles that establish whether information is held for the purposes of FOIA.

*Section 3.*

*(2) For the purposes of this Act, information is held by a public authority if—  
(a) it is held by the authority, otherwise than on behalf of another person, or  
(b) it is held by another person on behalf of the authority.*

Essentially this means that when a public authority holds information solely on behalf of another person it does not hold the information itself for FOIA.

There is much more information on what is covered by the Act on the Information Commissioners Office (ICO) website

Hope this helps.

Anne

**Anne Cameron** | Data Protection Manager (Information Governance Team) | 4th Floor | Kings House | Grand Avenue | Hove | BN3 3LS | Tel: [REDACTED] | Mobile: [REDACTED] | Information Security: x5959 | Email: [anne.cameron@brighton-hove.gov.uk](mailto:anne.cameron@brighton-hove.gov.uk)

Safe & Secure

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**From:** [REDACTED]  
**Sent:** 15 July 2016 10:39 AM  
**To:** Freedom Of Information; Anne Cameron  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Wendy/ Anne,

The council don't hold this information- this would be held by Mears.

Are we able to say "The Council does not hold this information" or do we need to elaborate, i.e. specific information on the employers of Mears is held by Mears and or their sub-contractors?

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | [REDACTED] | [Brighton & Hove City Council](#) | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Glyn Huelin  
**Sent:** 12 July 2016 4:44 PM



**To:** [REDACTED]  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Hi Nadia,

The council does not hold this information. Providing Martin is happy with that can we ask the FOI team to draft a response as such. We may want to raise with Mears as a separate issue.

Thanks,

Glyn Huelin | Business & Performance Manager | Housing | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** [REDACTED]  
**Sent:** 12 July 2016 15:45  
**To:** Glyn Huelin  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Glyn,

Please can you draft a response to this request, returning to me by 25 July.

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Housing FOI's  
**Sent:** 11 July 2016 11:14  
**To:** [REDACTED]  
**Cc:** Housing FOI's  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi [REDACTED]

Please see the FOI below. Can I have a response drafted and returned to the Housing FOI's inbox by 28 July 2016 for approval by Head of Service. Please let me know if any problems or if the FOI is not for you.

Kind Regards

[REDACTED] | PA to Tracy John | Head of Housing | [REDACTED] | Brighton & Hove City Council | Housing Centre, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL



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We will listen and act to get things done

---

**From:** Freedom Of Information  
**Sent:** 11 July 2016 8:05 AM  
**To:** Housing FOI's, [REDACTED]  
**Subject:** foi6653: Freedom of Information Request

We have received the following Freedom of Information request. We are required to respond to this by August 2016 .

**Please obtain approval of response from your Head of Service and then forward this to**  
**freedomofinformation@brighton-hove.gov.uk**

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The request is as follows:

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

Yours faithfully,

Many thanks.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [REDACTED]

**James McLaughlin**

---

**From:** [REDACTED]  
**Sent:** 19 July 2016 15:40  
**To:** Anne Cameron; Glyn Huelin  
**Cc:** Freedom Of Information  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Hi Anne,

Thanks for this.

I think we don't actually hold the information as this is Mears information, not the councils.

Glyn- are you happy with below response Anne has provided, subject to Martin's approval?

We could start of by saying "The Council does not hold this information" and then add in information from Anne following this?

Thanks

---

[REDACTED] | Management & Project Support Officer | Property & Investment | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Anne Cameron  
**Sent:** 19 July 2016 12:58 PM  
**To:** [REDACTED]  
**Cc:** Freedom Of Information  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Nadia apologies,

Just opened this email hope my advice not too late I have just written his up for another request here is what I wrote.

The Act covers all *recorded* information held by a public authority, if the authority retains possession of that information. What this means is that any records that we hold at the time of the request should be considered for release under the Act.

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*Section 3.*

*(2) For the purposes of this Act, information is held by a public authority if—  
(a) it is held by the authority, otherwise than on behalf of another person, or  
(b) it is held by another person on behalf of the authority.*

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Hope this helps.

Anne

**Anne Cameron** | Data Protection Manager (Information Governance Team) | 4th Floor | Kings House | Grand Avenue | Hove | BN3 3LS | Tel: [REDACTED] | Mobile: [REDACTED] | Information Security: x5959 | Email: [anne.cameron@brighton-hove.gov.uk](mailto:anne.cameron@brighton-hove.gov.uk)



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---

**From:** [REDACTED]  
**Sent:** 15 July 2016 10:39 AM  
**To:** Freedom Of Information; Anne Cameron  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Wendy/ Anne,

The council don't hold this information- this would be held by Mears.

Are we able to say "The Council does not hold this information" or do we need to elaborate, i.e. specific information on the employers of Mears is held by Mears and or their sub-contractors?

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | [REDACTED] | [Brighton & Hove City Council](#) | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Glyn Huelin  
**Sent:** 12 July 2016 4:44 PM  
**To:** [REDACTED]  
**Subject:** RE: foi6653: Freedom of Information Request unclassified

Hi [REDACTED],

The council does not hold this information. Providing Martin is happy with that can we ask the FOI team to draft a response as such. We may want to raise with Mears as a separate issue.

Thanks,

Glyn Huelin | Business & Performance Manager | Housing | [REDACTED] | [Brighton & Hove City Council](#) | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** [REDACTED]  
**Sent:** 12 July 2016 15:45

**To:** Glyn Huelin  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi Glyn,

Please can you draft a response to this request, returning to me by 25 July.

Thanks

[REDACTED] | Management & Project Support Officer | Property & Investment | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Housing FOI's  
**Sent:** 11 July 2016 11:14  
**To:** [REDACTED]  
**Cc:** Housing FOI's  
**Subject:** FW: foi6653: Freedom of Information Request unclassified

Hi [REDACTED]

Please see the FOI below. Can I have a response drafted and returned to the Housing FOI's inbox by 28 July 2016 for approval by Head of Service. Please let me know if any problems or if the FOI is not for you.

Kind Regards

[REDACTED] | PA to Tracy John | Head of Housing | [REDACTED] | Brighton & Hove City Council | Housing Centre, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL



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---

**From:** Freedom Of Information  
**Sent:** 11 July 2016 8:05 AM  
**To:** Housing FOI's, [REDACTED]  
**Subject:** foi6653: Freedom of Information Request

We have received the following Freedom of Information request. We are required to respond to this by August 2016.

**Please obtain approval of response from your Head of Service and then forward this to [freedomofinformation@brighton-hove.gov.uk](mailto:freedomofinformation@brighton-hove.gov.uk)**

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I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

Yours faithfully,



Many thanks.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 

## James McLaughlin

---

**From:** Freedom Of Information  
**Sent:** 02 November 2016 15:55  
**To:** [REDACTED]  
**Subject:** APOLOGY FOI6653 QUERY ON RESPONSE PROVIDED

**Categories:** Egress Switch: Unprotected

Good afternoon

Please accept our apologies for the delay in our response and I confirm that a response will be provided to you tomorrow.

Thank you.

Wendy Kassamani | Information Governance Officer (Information Governance Team) | 4th Floor | Bartholomew House | Bartholomew Square | Brighton | BN1 1JE | Tel: [REDACTED] | Information Security: x5959 | Email: [wendy.kassamani@brighton-hove.gov.uk](mailto:wendy.kassamani@brighton-hove.gov.uk)

-----Original Message-----

**From:** [REDACTED]  
**Sent:** 01 November 2016 04:20  
**To:** Freedom Of Information  
**Subject:** Re: FOI6653 QUERY ON RESPONSE PROVIDED

Dear Freedom Of Information,

Is anyone going to respond to this - it is very overdue.

Yours sincerely,

[REDACTED]

-----Original Message-----

Good morning

Please accept our apologies for the delay in our response to your further query. An urgent reminder has been sent to the department concerned and we shall respond as quickly as possible.

Thank you.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 [REDACTED]

-----  
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<https://www.whatdotheyknow.com/help/officers>

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<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

---



**James McLaughlin**

---

**From:** Housing FOI's  
**Sent:** 21 July 2016 17:34  
**To:** Freedom Of Information  
**Cc:** Housing FOI's  
**Subject:** FW: Approved response foi6653: Freedom of Information Request unclassified

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Wendy

Please see below our approved response to FOI6653.

Kind Regards

[REDACTED] | PA to Tracy John | Head of Housing | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre,  
Eastergate Road, Moulsecoomb, Brighton, BN2 4QL



We will be easy to reach



We will be clear and treat you with respect



We will listen and act to get things done

---

**From:** [REDACTED]  
**Sent:** 21 July 2016 1:12 PM  
**To:** Housing FOI's  
**Cc:** Glyn Huelin  
**Subject:** Approved response foi6653: Freedom of Information Request unclassified

Hi [REDACTED]

Martin has approved this response.

Thanks

**FOI6653 Response**

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis? The council does not hold this information. The information will be held by Mears and/or their contractors.

[REDACTED] | Management & Project Support Officer | Property & Investment | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Freedom Of Information  
**Sent:** 11 July 2016 8:05 AM  
**To:** Housing FOI's; [REDACTED]  
**Subject:** foi6653: Freedom of Information Request

We have received the following Freedom of Information request. We are required to respond to this by August 2016 .

**Please obtain approval of response from your Head of Service and then forward this to [freedomofinformation@brighton-hove.gov.uk](mailto:freedomofinformation@brighton-hove.gov.uk)**

FOI advice and guidance is available on the Wave, please visit [Information Governance](#)

The request is as follows:


I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

Yours faithfully,



Many thanks.

Wendy Kassamani  
Information Compliance Officer  
Tel: 01273 

**James McLaughlin**

---

**From:** [REDACTED]  
**Sent:** 10 July 2016 09:57  
**To:** Freedom Of Information  
**Subject:** Freedom of Information request - Zero hour workers

Dear Brighton and Hove City Council,

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

Yours faithfully,

[REDACTED]

-----  
Please use this email address for all replies to this request:

[REDACTED]  
Is [freedomofinformation@brighton-hove.gov.uk](mailto:freedomofinformation@brighton-hove.gov.uk) the wrong address for Freedom of Information requests to Brighton and Hove City Council? If so, please contact us using this form:  
[https://www.whatdotheyknow.com/change\\_request/new?body=brighton and hove city council](https://www.whatdotheyknow.com/change_request/new?body=brighton_and_hove_city_council)

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For more detailed guidance on safely disclosing information, read the latest advice from the ICO:  
<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

-----

## James McLaughlin

---

**From:** Housing FOI's  
**Sent:** 21 July 2016 17:34  
**To:** Freedom Of Information  
**Cc:** Housing FOI's  
**Subject:** RESPONSE foi6653: Freedom of Information Request unclassified

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hi Wendy

Please see below our approved response to FOI6653.

Kind Regards

[REDACTED] | PA to Tracy John | Head of Housing | (01273) [REDACTED] | Brighton & Hove City Council | Housing Centre, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL



We will be easy to reach



We will be clear and treat you with respect



We will listen and set to get things done

---

**From:** [REDACTED]  
**Sent:** 21 July 2016 1:12 PM  
**To:** Housing FOI's  
**Cc:** Glyn Huelin  
**Subject:** Approved response foi6653: Freedom of Information Request unclassified

Hi [REDACTED]

Martin has approved this response.

Thanks

### FOI6653 Response

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis? The council does not hold this information. The information will be held by Mears and/or their contractors.

[REDACTED] | Management & Project Support Officer | Property & Investment | [REDACTED] | Brighton & Hove City Council | Housing Centre, Unit 1 Fairway Trading Estate, Eastergate Road, Moulsecoomb, Brighton, BN2 4QL

---

**From:** Freedom Of Information  
**Sent:** 11 July 2016 8:05 AM  
**To:** Housing FOI's; [REDACTED]  
**Subject:** foi6653: Freedom of Information Request

**James McLaughlin**

---

**From:** [REDACTED]  
**Sent:** 24 July 2016 12:19  
**To:** Freedom Of Information  
**Subject:** Re: foi6653: RESPONSE PROVIDED

Dear Freedom Of Information,

I have marked this 'information not held' but I note from section 26 "Freedom of Information" of the contract between Mears and the council that Mears and its sub-contractors have 5 days to respond to requests.

Thus, the reply I have received seems somewhat disingenuous. The council needs to ask Mears to provide the information I originally requested.

Yours sincerely,

[REDACTED]

-----Original Message-----

Please find set out below the information in response to the above request:

#### FOI6653 Response

I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.

Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?

The council does not hold this information. The information will be held by Mears and/or their contractors.

Should you have any further queries about this request, please contact us via email to [1][Brighton and Hove City Council request email] quoting the reference number given above.

If you are not satisfied with the handling of your request, you can appeal (Internal Review) within 2 months of the completed FOI. Write to:

Freedom of Information Appeals

Brighton & Hove City Council

ICT 4th Floor

Kings House

Grand Avenue

Hove BN3 3LS

[2][Brighton and Hove City Council request email]

If you are still not satisfied after your Internal Review has been investigated, you can escalate your complaint to the Information Commissioners Office. The contact details are:

The Information Commissioners Office

Wycliffe House

Water Lane

Wilmslow

Cheshire SK9 5AF

Helpline: 0303 123 1113 (local rate) or 01625 545 745 (national rate)

e-mail: [3][email address]

Website: [4]www.ico.org.uk

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Thank you in anticipation of your co-operation.

You can visit our website at <http://www.brighton-hove.gov.uk>

Please consider the environment, only print out this email if absolutely necessary.

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#### References

##### Visible links

1. [mailto:\[Brighton and Hove City Council request email\]](mailto:[Brighton and Hove City Council request email])
2. [mailto:\[Brighton and Hove City Council request email\]](mailto:[Brighton and Hove City Council request email])
3. [mailto:\[email address\]](mailto:[email address])
4. <http://www.ico.org.uk/>

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Please use this email address for all replies to this request:

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<https://www.whatdotheyknow.com/help/ico-guidance-for-authorities>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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Upholding information rights

Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF  
Tel. 0303 123 1113 Fax. 01625 524 510 [www.ico.org.uk](http://www.ico.org.uk)

Sent via email to: [freedomofinformation@brighton-hove.gov.uk](mailto:freedomofinformation@brighton-hove.gov.uk)

3 April 2017

**Your reference: FOI6653**

**ICO reference: [REDACTED]**

Dear Sir / Madam

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

**Complainant: [REDACTED]**

We wrote to you previously to let you know that we have accepted this case for investigation. I have now been asked to investigate it.

You should now reconsider the way Brighton and Hove Council (the "council") has handled this request and respond as detailed below

**ICO's approach**

On receipt of a complaint under the FOIA, we will give a public authority one opportunity to justify its position, before issuing a decision notice. Please consider the guide for public authorities on our website for more information about how we handle complaints:

[http://www.ico.org.uk/for\\_organisations/freedom\\_of\\_information/guide.aspx](http://www.ico.org.uk/for_organisations/freedom_of_information/guide.aspx)

**The request**

On 10 July 2016 the complainant made the following request for information:

*"I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.*

*Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similiar basis?"*

You responded on 22 July 2016 and stated that the information was not held.





You advised the complainant that the information would be held by Mears and/or its contractors.

You provided an internal review on 3 November 2016 in which you maintained your original position.

### **What you need to do now**

Where possible we prefer complaints to be resolved by informal means, and we ask both parties to be open to compromise. It is also your responsibility to satisfy us that you have complied with the law. Our website has guidance which you should refer to in order to check whether your original response to the information request was appropriate.

This is your opportunity to finalise your position. With this in mind, you should revisit the request. After looking at our guidance, and in light of the passage of time, you may decide to reverse or amend your position. If you do, please notify the complainant and me within the timeframe specified at the end of this letter. This may enable us to close this case informally without the need for a decision notice.

In any event, we need you to address the questions in this letter to reach a decision.

### **Section 1 – information held**

In your responses to the request you have stated that the information is held by Mears / its contractors and that the information is held for its own purposes.

Section 1(2)(b) of the FOIA provides that information is held by a public authority if it is "*....held by another person on behalf of the authority.*"

In order to determine whether the information is held by the council I need to establish whether, to any extent, the information held by Mears is held on behalf of the council. To this end, please address the questions below.

(1) Does the council use the requested information for its own purposes? For example, is it needed for any monitoring purposes in relation to performance under the contract?



Information Commissioner's Office

(2) Confirm what contractual arrangements are in place between the council and Mears in relation to responsibilities and information sharing.

(3) The Commissioner recommends that, as a matter of good practice, public authorities should adopt a 'transparency by design' approach when they are drawing up an outsourcing contract. In addition to addressing ambiguity as to what information is held, this goes beyond and seeks to promote transparency and accountability in outsourcing and reduce uncertainty as to what information is available. Transparency by design starts with transparency by default. Please explain what steps the council has taken to promote transparency in relation to this matter and confirm whether, as good practice, the council would consider accessing the information and making it publicly available.

---

We strongly recommend that your response is guided by recent decision notices, our guidance and our lines to take, which demonstrate our approach to the procedural sections of the FOIA. These can be found on our website:

- <http://search.ico.org.uk/ico/search/decisionnotice>
- <https://ico.org.uk/for-organisations/>

For the avoidance of doubt, you should now reconsider your position in relation to the request and answer all the questions in this letter.

Please provide your response within 20 working days of the date of this letter, that is by 3 May 2017, ensuring that you fully set out your final position in relation to this request.

Thank you for your help with this matter.

Yours faithfully

Christopher Williams  
Senior Case Officer  
01625 545 852



Information Commissioner's Office

*We are often asked for copies of the correspondence we exchange with third parties. We are subject to all of the laws we deal with, including the Data Protection Act 1998 and the Freedom of Information Act 2000. You can read about these on our website ([www.ico.org.uk](http://www.ico.org.uk)). Please say whether you consider any of the information you send us is confidential. You should also say why. We will only withhold information where there is good reason to do so.*

## James McLaughlin

---

**From:** Katie Rees  
**Sent:** 02 May 2017 16:31  
**To:** 'casework@ico.org.uk'  
**Subject:** [REDACTED] - Response Letter from BHCC  
**Attachments:** HPP ITT final (including TPC) - Extract 26 FOIA.PDF; BHCC & Mears Limited (Extract KPIs).pdf; [REDACTED] - Response Letter (FINAL).pdf

**Categories:** Egress Switch: Unprotected

Good Afternoon,

Thank you for your recent letter dated 3<sup>rd</sup> April 2017 in relation to case [REDACTED].  
Please find attached our response and please do not hesitate to contact myself should you have any further questions.

Kindest Regards,

**Katie Rees**

Freedom of Information & Data Protection Team (Information Governance)  
Brighton & Hove City Council

**Please find our new suite of Information Governance policies [here](#).**

## **Appendix 3**

### **Part 1 – KPIs and Targets**

The KPIs agreed by the Client and the Service Provider are as set out below. In the event of any discrepancy between the KPIs set out in this Appendix 3 Part 1 and any KPIs referred to in the Partnering Documents, the KPIs set out in this Appendix 3 Part 1 shall prevail.

#### **CONTRACT KPIs with YEAR 1 TARGETS**

##### **Programme Work**

**\*P1 % of works started and completed in line with agreed plan 95%**

- Actual no. of units to benefit from programme / Anticipated no. of units to benefit from programme \* 100
- Anticipated average unit cost
- Actual average unit cost

**\*P2 Resident satisfaction with programme work 95%**

- Collected from Mears satisfaction surveys completed soon after work was done.
- % of respondents rated service as good/ excellent, based on one question.

**\*P3 Post inspection pass rate for programmed work (defects) 97%**

- no. of properties passing post-inspection first time which did not require any snagging / no. of properties post inspected \* 100
- log each month the reasons/ nature of the snagging/ defects.
- Log each month the % and type of orders which are being post-inspected

##### **Responsive Repairs**

**\*R1 % of urgent (right to repair) repairs completed within target 97%**

- Audit Commission provides definition as per xBV72
- No. of RTR orders completed within target time / total no. of completed RTR orders \* 100
- See *Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994* for Government time limits
- £250 upper limit applies

**\*R2 Number of days to complete non-urgent repairs 15 days**

- Audit Commission provides definition as per xBV73
- For all non-RTR orders completed during reporting period, the average no. of calendar days between the order being requested by customer to the order being completed by Mears.
- Non urgent repairs are those excluded from 'The Secure Tenants of Local Housing Authorities (Right to Repair) Regulations 1994

**R3 % of emergency (1 day or less) repairs completed within target time 97%**

- within the reporting period:
- no. of emergency orders completed by the target date / total no. of emergency orders completed \* 100

**R4 % of urgent (3 working days or less) repairs completed within target time 97%**

- as R3 for urgent works

**R5 % of routine (20 working days or less) repairs completed within target time 97%**

- as R3 for routine works

**\*R6 Resident satisfaction with responsive repairs service 95%**

- data collected from two sources to compare results.
- Mears: from satisfaction surveys % of respondents that rate service received as good/ excellent.
- BHCC: from quarterly surveys the % of respondents that rate service as good/ excellent.

**\*R7 Post inspection pass rate for responsive repairs (defects) 95%**

- no. of properties passing post-inspection first time which did not require any snagging / no. of properties post inspected \* 100
- log each month the reasons/ nature of the snagging/ defects.
- Log each month the % and type of orders which are being post-inspected

**R8 % of repairs completed right first time 85%**

For the reporting period:

- no. of orders completed during first visit to the property / total no. of orders completed \* 100
- Right = completed to the satisfaction of the landlord

- First time = completed by the repairs operative without the need to return a further time because the repairs was inaccurately diagnosed and/ or the operative did not have the right training, tools or components to fix the problem.
- Responsive repairs = all priorities of responsive repairs, including non-appointed works and emergencies.
- if an operative leaves the property to go and collect a part, or needs to return to property with another appointment, this is not RFT.
- Where an operative calls at a property and cannot gain access, this initial visit will be excluded from the stats. Only the first visit where access is actually gained should be counted.

#### **R9 % of appointable responsive repairs where appointments are made and kept 95%**

- no. of orders where appointment is made and kept / total no. of appointable orders
- applies to all urgent and routine orders
- excludes work to communal areas, unoccupied properties and emergency orders
- call centre staff will make appointments at same time the repair is reported.
- Detailed definition has been adopted during 2009.

#### **Empty Property Repairs**

**\*E1 Average construction time in re-let process (excluding major empty property repairs)**  
12 days

For the reporting period:

- Average number of calendar days from constructor permitted access to works complete

Or,

- Average number of calendar days from lock change to post-inspection

#### **E2 Post inspection pass rate for empty property repairs (defects) 97%**

- $\frac{\text{no. of properties passing post-inspection first time which did not require any snagging}}{\text{no. of properties post inspected}} \times 100$
- log each month the reasons/ nature of the snagging/ defects.
- Log each month the % and type of orders which are being post-inspected

#### **National Indicators**

Definition is provided by Audit Commission

**NI 14 Avoidable contact**

**NI 158 % non decent homes**

**NI 160 LA tenant satisfaction with landlord services**

**Time taken to relet local authority dwelling**

**Average SAP rating (energy efficiency) of local authority dwellings**

**\* Fundamental KPI to Contract**



BHCC reference: FOI6653

ICO Reference: [REDACTED]

Requestor: [REDACTED]

Email: [REDACTED]

Date: 02 May 2017

## Response to ICO's Letter of Investigation

Thank you for your recent letter received 03 April 2017 in regards to the above Freedom of Information Request made on 10<sup>th</sup> July 2016 by complainant, David Croydon in regards to: 'Zero Hours Workers'. Please find below original FOI request and our response to your investigation questions:

### Original Freedom of Information Request:

*"I understood from one of the workers engaged through the Housing partnership with Mears that he was on a zero-hour contract. I.e. he had received notification that he was working for the day only that morning.*

*Please can you tell me the number and proportion of staff employed on implementation of the partnership's work for BHCC (including through subcontracts) who are working on a similar basis?"*

### We responded to the requestor on 24<sup>th</sup> July 2017, stating:

*"The council does not hold this information. The information will be held by Mears and/or their contractors".*

### We then received further correspondence from Mr [REDACTED] on the same day stating:

*"I have marked this 'information not held' but I note from section 26 "Freedom of Information" of the contract between Mears and the council that Mears and its sub-contractors have 5 days to respond to requests.*

*Thus, the reply I have received seems somewhat disingenuous. The council needs to ask Mears to provide the information I originally requested".*

### On 8<sup>th</sup> September 2016, Mr [REDACTED] requested an Internal Review.

*'Please pass this on to the person who conducts Freedom of Information reviews. I am writing to request an internal review of Brighton and Hove City Council's handling of my FOI request 'Zero hour workers'. I have not been answered in the time scale allowed'.*

On 3<sup>rd</sup> November 2016 we submitted to the requestor our Internal Review response, we note that this response was sent outside of the statutory time period of 20 working days and apologised to the requestor for the delay. Our response is set out below:

*"We do not hold this information for the purposes of the act. This is held by our contractor Mears. Mears will hold this information for their own purposes. In light of this, as you mentioned earlier, Mears have a contractual agreement to ensure that Mears and its contractors respond to FOI requests within 5 working days. However, this only applies if they hold information relevant to the Act. To which I believe they do not.*

I have also provided further guidance: <https://ico.org.uk/media/for-organisations/documents/1043530/outsourcing-and-freedom-of-information.pdf>

Since this correspondence we received a letter of acceptance of case FS50658773, asking us to provide the following information, please find out response set out below:

#### Section 1 – Information Held

**Does the Council use the requested information for its own purposes? For example, is it needed for any monitoring purposes in relation to performance under the contract?**

Mears Ltd provides a comprehensive responsive repairs, planned maintenance and major works service for council homes across the city under a 10-year contract. Around 20% of the annual contract is responsive repairs of which just under 30% (by number of jobs) is carried out by sub-contractors. In terms of value, the contract is expected to cost £27m in 2015/16. Approximately 4% of the annual cost relates to sub-contracted responsive repairs. Sub-contractors are also used extensively for planned and major works but these are subject to different payment, audit and sign off regimes.

The Council does not have a zero hour's contract policy. The Council has not implemented any requirements with contractors (and their subcontractors) under the tender process around zero hour's contracts.

Therefore the Council does not use the requested information for any monitoring purposes, nor is it parts of the KPI's as outlined in the contract (KPI clauses attached)

**1) Confirm what contractual arrangements are in place between the council and Mears in relation to responsibilities and information sharing**

Please see attached clauses re information sharing and KPI's.

**2) The Commissioner recommends that, as a matter of good practice, public authorities should adopt a 'transparency by design' approach when they are drawing up an outsourcing contract. In addition to addressing ambiguity as to what information is held, this goes beyond and seeks to promote transparency and accountability in outsourcing and reduce uncertainty as to what information is available. Transparency by design starts with transparent by default. Please explain what steps the council has taken to promote transparency in relation to this matter and confirm whether, as good practice, the council would consider accessing the information and making it publically available.**

As outlined above, the Council signed the contract with Mears PLC on 30 March 2010, it then started on 01 April 2010. The contract is due to expire on 31 March 2020.

The Council are currently scoping and adopting a "transparency by design" approach as a part of the changes and enhancements which will come into force along with the by General Data Protection Regulations (GDPR) in May 2018.

We are currently drafting GDPR complaint clauses (and reviewing all our information rights clauses) in order to make the necessary changes to existing contracts and prepare for any new contracts.

Please feel free to contact myself should you need further information, on 01273 291415.

Kindest Regards,

*K Rees*

**Katie Rees  
Data Protection Officer  
Brighton & Hove City Council**