

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

### **Decision notice**

**Date:** 16 June 2016

**Public Authority:** Leeds City Council  
**Address:** Civic Hall  
Calverley Street  
Leeds  
West Yorkshire  
LS1 1UR

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

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1. The complainant has requested recorded information from Leeds City council which concerns its Taxi and Private Hire Licensing Department.
2. The Commissioner's decision is that Leeds City Council is entitled to rely on section 12 of the FOIA.
3. The Commissioner requires the public authority to take no further action in this matter.

#### **Request and response**

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4. On 16 June 2015, the complainant wrote to Leeds City Council and requested information on behalf of Private Hire Support Services in the following terms:
  1. "Would you please supply copies of the last audited accounts for the Leeds City Council Taxi and Private Hire Department?"
  2. Would you please supply details and copies of any transactions made on any Leeds City Council Corporate Credit Cards by any member of Staff or Management employed at Leeds City Council Taxi Private Hire Department for the period 01/04/2014 to 31/03/2015?
  3. Would you please supply copies and details of any transactions made on any Leeds City Council Corporate Debit Cards by any

member of Staff or Management employed at Leeds City Council Taxi and Private Hire Department for the period 01/04/2014 to 31/03/2015?

4. Would you please supply details of the cost to Leeds City Council, or Leeds City Council Taxi and Private Hire Department of Private Hire Stickers for Private Hire Vehicles licenced by Leeds City Council?
5. Would you please supply details of the price charged for Private Hire Vehicle Stickers by Leeds City Council Taxi and Private Hire Department to Private Hire Vehicle Owners?
6. Would you please supply details of any charges made by any external organisation to Leeds City Council or Leeds City Council Taxi and Private Hire Department for the fitting of Private Hire Vehicle Stickers on Private Hire Vehicles licenced by Leeds City Council?
7. Would you please supply details of the cost to Leeds City Council, or Leeds City Council Taxi and Private Hire Department of Private Hire Neck Lanyards?
8. Would you please supply details of the price charged for Private Hire neck lanyards by Leeds City Council, or Leeds City Council Taxi and Private Hire Department to Private Hire Drivers?
9. Would you please supply details of the cost to Leeds City Council, or Leeds City Council Taxi and Private Hire Department for the yellow Private Hire badge holders?
10. Would you please supply details of the price charged for yellow Private Hire Badge Holders by Leeds City Council, or Leeds City Council Taxi and Private Hire Department to Private Hire Drivers?
11. Would you please supply details of the cost to Leeds City Council, or Leeds City Council Taxi and Private Hire Department of an Enhanced DBS.
12. Would you please supply details of the price charged for an enhanced DBS by Leeds City Council, or Leeds City Council Taxi and Private Hire Department to Private Hire Drivers, Vehicle Owners and Operators?
13. Would you please advise whether DBS enquiries are made by either Leeds City Council, or Leeds City Council Taxi and Private Hire Department, or is an external, authorised body used on the Council's behalf.

14. Would you please supply details of the cost to Leeds City Council, or Leeds City Council Taxi and Private Hire Department of the Mathematics and English Tests required to obtain a Private Hire Drivers/Operators Licence?
  15. Would you please supply details of the price charged to Leeds City Council, or Leeds City Council Taxi and Private Hire Department for the Mathematics and English Tests to Private Hire Drivers/Operators?"
5. On 21 July, the complainant wrote to the Council to seek clarification following its response to his information request. In seeking clarification, the complainant asked for the following information:

"Question 1: We therefore repeat our request for copies of the last audited accounts for the Leeds City Council Taxi and Private Hire Department.

Would you please supply copies of the Council's Statement of Accounts for the period 01/04/2014 to 31/03/2015, highlighting any entries that appertain to Leeds City Council Taxi and Private Hire Department for the period 01/04/2014 to 31/03/2015?

Question 2 and 3: Would you please supply details of any expenses claimed by Employees/Managers of Leeds City Council Taxi and Private Hire Department for the period 01/04/2014 to 31/03/2015?

Question 4, 5 and 6: Would you please confirm Leeds City Council's 'financial threshold' for procurement Services for the supply of all stickers as per the above questions, 4, 5 and 6.

Question 4, 5 and 6: Would you please confirm the length of the contract entered into by Leeds City Council Taxi and Private Hire Department with the current supplier?

Question 4, 5 and 6: Would you please confirm the value of the contract entered into by Leeds City Council Taxi and Private Hire Department with the current supplier along with the start and end dates of the contract period?

Would you please confirm that all contracts/purchases made by Leeds City Council Taxi and Private Hire Department comply with current 'Procurement Legislation'.

Would you please supply details of what 'Procurement Legislation' Leeds City Council are relying on in answering the above questions?"

6. On 19 August, the Council responded to the complainant's request for clarification. In respect of question 1, 2 and 3, the Council provided a spreadsheet which provided the Taxi and Private Hire Department's trading account for 2014/15. It also advised the complainant that the Council annually publishes an audited Statement of Accounts and that it was not aware of any specific requirement for disclosure in relation to the Taxi and Private Hire Service. The Council pointed out that those accounts form part of the overall Statement of Accounts.
7. In respect of Question 4, 5 and 6, the Council advised the complainant that the threshold for procurement services is not applicable as the signs are supplied by its in-house provider, City Signs. Consequently there is no contract for that service and therefore there is no value or start and end dates.
8. The Council informed the complainant that current procurement legislation does not apply in this situation and that it is entitled to supply its own signs without the need to subject the matter to competition. The Council stated that it is only obliged to follow procurement legislation where it is purchasing goods, works and services from a third party outside of the Council.
9. On 28 August the complainant wrote to the Council to complain about its refusal to supply the information requested at point 1 in his clarification request of 21 July. The complainant advised the Council that he had requested, "the authority/ legislation [the Council] is relying on [for] not disclosing the requested information".
10. The Council responded to the complainant on 10 September: It confirmed that the Council does not produce separate audited accounts for the Taxi and Private Hire Department and that the Council's audited accounts cover all of the Council's functions. The Council provided the complainant with a 'comprehensive financial statement' for Vehicle Licencing and it apologised for not providing the draft accounts which were awaiting sign-off from its external auditors. The Council provided a link to a web address where the draft accounts could be found and it directed the complainant to the reference relating to the Taxi and Private Hire Department at paragraph 12 section (i) on page 55.
11. The complainant wrote again to the Council on 11 September to ask for an internal review. The complainant advised the Council that it had failed to provide him with the information he had requested and he expressed his difficulty in understanding how the Taxi and Private Hire Department did not produce comprehensive income and expense accounts for auditing purposes.

12. The Council conducted a stage 1 review of its handling of the complainant's request and on 17 September the Council advised him of its decision.
13. The Council made clear to the complainant that it does not produce separate 'audited' accounts for the Taxi and Private Hire Department. It also made clear that the Taxi and Private Hire Department's ring-fenced accounts are included in the Council's audited and published financial statements, which it had supplied to him in draft form for 2014/15, with the Taxi and Private Hire entry being referenced. The Council also pointed out that, previously on 19 August, it had sent the complainant two spreadsheets; one with summary information and a second with more detailed financial information on the second tab of the workbook.
14. On 29 September the complainant wrote to the Council to complain about its internal review response. He asserted that the information which the Council had provided was not adequate for him to scrutinise the accounts of the Taxi and Private Hire Department and again he pointed out that the Council had failed to advise him of the legislation it is relying on to not provide him with the information he seeks,
15. On 2 October the Council provided the complainant with the following response to his letter of 29 September:

"Under section 1(1) of the Freedom of Information Act 2000 I can confirm that we do hold the requested information. Furthermore, there is no obligation for Leeds City Council to create this information if it does not exist.

I regrettably understand that as you state, you have the opportunity to raise this matter with the ICO."
16. On 24 November the Council carried out an internal review of his request to be provided with financial documentation and receipts for the Taxi and Private Hire section. The Council's review determined that to comply with the complainant's request would exceed the appropriate limit and therefore his request was refused in reliance on section 12 of the FOIA.

### **Scope of the case**

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17. The complainant contacted the Commissioner on 14 October 2015 to complain about the way his request for information had been handled.
18. The Commissioner has investigated the Council's reliance on section 12 of the FOIA in respect of the complainant's request.

## **Background information**

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19. All local authorities are required to produce annual Statements of Accounts in accordance with the Code of Practice on Local Authority Accounting and relevant legislation. These statements are subject to independent audit which require the auditors to comment on the accounts.
20. The TPHL departmental accounts are incorporated into the Council's published overall Statement of Accounts. There is no requirement for the TPHL departmental accounts to be audited separately.

## **Reasons for decision**

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21. The Council has advised the Commissioner that it holds a 2014/2015 financial statement for the TPHL Department which contains a summary and detailed breakdown of the TPHL accounts and information on the department's net surplus which has been transferred to the TPHL reserve.
22. The TPHL reserve is ring-fenced and it is this which is specified on the Draft Statement of Accounts at paragraph 12, section (i) on page 55. This information was supplied to the complainant when the Council made its response to his initial request.
23. The Council holds more detailed transactional information, including receipts and documentation, which relates to the 2014/2015 financial statement for the TPHL. This information has not been provided to the complainant on the grounds that to do so would require the Council to exceed the appropriate limit under section 12 of the FOIA.
24. Under section 12(1) of FOIA a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit. The cost limit is set out in section 3(2) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations) and is currently set at £450.
25. The £450 limit must be calculated at the rate of £25 per hour. This effectively provides a time limit of 18 work hours. Additionally regulation 4(3) the Fees Regulations only allows for four activities which can be considered in relation to complying with the requests. These activities are:

- Determining whether the public authority holds the information requested;
  - Locating the information or documents containing the information;
  - Retrieving such information or documents; and
  - Extracting the information from a document or other information source.
26. The cost of redacting relevant but exempt information may not be taken into consideration for the purpose of calculating the appropriate limit.
  27. To support its reliance on section 12 of the FOIA, the Council has explained how it holds the information requested by the complainant. The Council explained that the information is scanned and retained in a number of council systems depending on the type of transaction.
  28. In order to prepare a list of transactions and identify, copy and cross reference all of the relevant support information, the Council estimates that it would take, on average 5 minutes per transaction.
  29. For all the transactions relevant to the complainant's request, the Council estimates that it would take in excess of 230 hours of council time to comply with his request. This time is in addition to the 10 hours which the Council has already been spent in dealing with the requests contained in the complainant's correspondence in respect of the TPHL department.
  30. To illustrate the work involved in obtaining some of the information relevant to the complainant's request, the Council's internal review described for the complainant what information could be provided to him within the cost limit. This includes details of the recharges for the Disclosure and Baring Service checks ("DBS") carried out by the TPHL department.
  31. The Council advised the complainant that all of the DBS checks are invoiced through the Council's Business Support Centre and that there were 701 of these transactions which relate to TPHL requests.
  32. The Council informed the complainant that it would take 5 minutes per transaction to cross-reference the 701 transactions relating to TPHL department requests and therefore it would take in excess of 58 hours to cross reference the invoices with the TPHL systems to extract the relevant entries from the invoices.
  33. The remaining journal entries comprise coding adjustments, charges for utility costs, charges for legal fees and other recharges. Whilst it would



take approximately 30 minutes to provide the complainant with a breakdown of these charges, to provide the supporting documentation would take, on the basis of 5 minutes per transaction, approximately 7 hours.

34. Likewise, a list of internal re-charges associated with the training for applicants and installation of panels could be provided to the complainant, as it would take approximately 20 minutes to generate this information. However to provide the complainant with the supporting information for these entries would take a further 12.5 hours.
35. Where a transaction relates to the purchase of goods using the purchasing card system, the Council estimates that it would take approximately 30 hours of work to generate the supporting documentation for one year's information. This is based on an estimate of 2.5 hours per month.

*The Commissioner's conclusions and decision*

36. The Commissioner has considered the information which the complainant has asked for in his correspondence with the Council. He has also considered how the Council has answered the complainant's many requests together with the information and explanations it has provided.
37. The Commissioner is in no doubt that the Council holds formative information which has been used to generate information which has been collated for the purpose of preparing Council's summative Statements of Accounts. It is clear to the Commissioner that the formative information can be searched for.
38. The estimate of the time the Council would need to spend to collect and collate the information required by the complainant would appear, on the balance of probabilities, to require the Council to spend significantly longer than the 18 hours of work required by the Code of Practice.
39. The Commissioner considers the Council's representations to be sufficient and plausible to the extent that he can accept, on the balance of probabilities, that to comply with the complainant's request the Council would exceed the appropriate limit. He therefore finds that the Council is entitled to refuse the complainant's request in reliance on section 12 of the FOIA.
40. The Council's internal review outlined for the complainant how he might bring his request within the appropriate limit. The review advised the complainant that the Council would be prepared to discuss with him other ways in which his request might be refined. In view of the Council's attempts to offer advice and assistance to the complainant, the



Commission is content that the Council has satisfied the requirement of section 16 of the FOIA.

### **Other matters**

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41. The complainant has asserted that the person who carried out the Council's internal review is not an independent purpose for that purpose.
42. The Commissioner is content that there is no merit to the complainant's argument. He is obliged to point out that the section 45 Code of Practice has no requirement for a review to be conducted by an "independent person". The Code of Practice merely requires that the review is undertaken by a "senior officer". As the reviewing officer is the Council's Chief Officer responsible for Taxi and Private Hire Licensing, and he reports directly to the Council's Assistant Chief Executive, the Commissioner is content that the Council's choice of reviewing officer was appropriate in this case.

## Right of appeal

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43. 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)

44. 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.
45. 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**