

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 21 April 2015

**Public Authority:** Liverpool City Council  
**Address:** Municipal Buildings  
Dale Street  
Liverpool  
Merseyside  
L2 2DH

#### Decision (including any steps ordered)

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1. The complainant has requested information from Liverpool City Council ("the council") about parking policy. The council disclosed some information, but withheld the remainder under section 21(1) of the Freedom of Information Act ("the FOIA"). The complainant disputed the application of section 21(1), and whether all relevant information had otherwise been identified.
2. The Commissioner's decision is that section 21(1) is engaged, and that no further information is held that falls within the scope of the request.
3. The Commissioner does not require any steps to be taken.

#### Request and response

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4. On 14 November 2014, the complainant requested the following information as part of a larger request:
  - 1) *The city council's policy on which vehicles may park in 'residents only' parking bays in the Outer Controlled Parking Zone (OCPZ) zone K, specifically in relation to a) pay and display ticket holders, b) motorcycles c) disability 'blue badge' holders and d) social housing landlord contractors.*

- 2) *If there has been any change in policy since the city council leaflet "Parking in the Outer Controlled Parking Zone" was issued in 2005 please provide a) the minutes of (or the link to) the city council meeting at which the change was approved and b) the title of the central government legislation or guidance that brought about the change or changes.*
5. The council responded on 12 December 2014. It disclosed some information, and confirmed that the remainder was already publically available (and therefore exempt under section 21(1)).
  6. The council provided an internal review on 6 January 2015 in which it maintained its position.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 8 February 2015 to contest the council's response in respect of parts 1 and 2 of his request.
8. The Commissioner therefore considers the scope of this case is the determination of whether the council has correctly applied section 21(1) in respect of the information withheld for parts 1 and 2, and whether or not all information that falls within the scope of parts 1 and 2 has been identified.

### **Reasons for decision**

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#### **Section 21 – Information accessible to the applicant by other means**

9. Section 21(1) provides an exemption for information that is already reasonably accessible to the applicant. It is an absolute exemption and as such no public interest test needs to be applied.
10. The council has confirmed that the information withheld under this exemption entails the following:
  - a) The council's 'Enforcement Policy' and 'Appeals Policy', available in .pdf format on the council's webpages (<http://liverpool.gov.uk/council/strategies-plans-and-policies/roads-and-transport/parking-enforcement-and-appeals-policies/>)
  - b) The council's Traffic Regulation Orders, available in .pdf format on the Traffic Penalty Tribunal's webpages (<http://tro.parking-adjudication.gov.uk/>)

- c) The council's guidance on completing parking permit application forms, available in .pdf format on the council's webpages (<http://liverpool.gov.uk/parking-travel-and-roads/parking-permits/residents-parking-permits/>)
11. The council has further confirmed that this information has been available online from 2007 onwards, and has been maintained on an ad-hoc basis to reflect policy changes. However, no specific records are held that specify that exact dates when such updates have been undertaken.
  12. The council believes that this information is reasonably accessible to the complainant, who has both contacted the council by email, and requested that any response is provided by the same. The council considers that this suggests he is able to access electronically provided information.
  13. Having therefore considered the above, and in the absence of any conflicting evidence provided by the complainant, the Commissioner has concluded that the withheld information is reasonably accessible to the complainant by other means, and that the council has correctly applied section 21(1).

### **Section 1(1) – Duty to make information available on request**

14. Section 1(1) states that any person making a request for information is entitled to be informed by the public authority whether it holds the information, and if so, to have that information communicated to them. This is subject to any exemptions or exclusions that may apply.
15. The FOIA provides a right of access to information in recorded form, and only that which exists at the time of the information request. The FOIA does not require a public authority to generate new information, such as in the form of an explanation of opinion, in order to respond to a request.

#### *The complainant's position*

16. The complainant has requested information about the council's policy on parking in a specific zone, and whether there has been any change in this policy since 2005.
17. The Commissioner, having reviewed the correspondence between the parties, has noted that the basis of the complainant's dispute is the absence of specific provision in the council's policies for 'blue badge holders' to park within residents bays, even though this is seemingly allowed. This is further suggested by the council's internal review, in which it advises that the council's current policy is to allow disabled

badge holders to park in resident bays, and that the council aims to shortly amend its policy documents to formalise this change.

*The council's position*

18. The council has detailed to the Commissioner that the request is specifically for policy, policy changes and associated guidance, and that as such its response has been based on the advice of appropriate officers and managers from the teams involved in parking policy. As such, the council has confirmed that it considers its response to be complete.

*The Commissioner's conclusion*

19. In the circumstances of this complaint, the Commissioner must decide on the balance of probabilities whether further information is likely to be held by the council.
20. It is evident to the Commissioner that the complainant has submitted their request in the expectation that the council's current policy is formalised within its policy documents. However, the council has explained in its internal review that the current policy has not yet been formally recorded, and that it intends to do this shortly. Having considered this, in addition to the steps that the council has taken to ensure its response is correct, the Commissioner has come to the conclusion that it is unlikely the council holds further information that would fall within the scope of the request.

## Right of appeal

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21. 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: 0116 249 4253

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)

22. 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.
23. 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**