

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 October 2024

Public Authority: London Borough of Brent
Address: Brent Civic Centre
Engineers Way
Wembley
HA9 0FJ

Decision (including any steps ordered)

1. The complainant has requested information about names of directors of limited companies associated with the London Borough of Brent ("the Council"). The Council referred the complainant to the Companies House website. During the course of the Commissioner's investigation, the Council sought to rely on section 21 (information accessible to applicant by other means) to withhold the requested information.
2. The Commissioner's decision is that the Council is entitled to rely on section 21 to withhold the requested information.
3. The Commissioner does not require further steps.

Request and response

4. On 15 April 2024, the complainant wrote to the Council to provide it with copies of Subject Access Requests (SARs) and information requests they had submitted to "[name redacted], a director of Londonewcastle (Kilburn) Limited, which in turn, is a director of the following companies; South Kilburn QP LLP and The Mayor and Burgesses of the London Borough of Brent, all directors of The London Borough of Brent as stated on Companies House."
5. The complainant also attached a copy of a combined SAR and information request they had submitted to the London Borough of Brent

Parking Services on 3 April 2024. The complainant requested information in the following terms:

- "5. Please provide the individual(s) names and details, not a company name, who is/are the director(s) of South Kilburn QP LLP, a company associated with the London Borough of Brent listed on Companies House.
6. Please provide the individual(s) names and details, not a company name, who is/are the director(s) of Londonewcastle (Kilburn) Limited, a company associated with the London Borough of Brent listed on Companies House.
7. Please provide the individual(s) names and details, not a company name, who is/are the director(s) of The Mayor and Burgesses of the London Borough of Brent, a company associated with the London Borough of Brent listed on Companies House."
6. The Council responded on 29 April 2024. In response to each part of the complainant's request under FOIA, it stated that:
- "Details pertaining to Limited Companies and Limited Liability Companies are registered with Companies House. Details are held on the Companies House register and are open to view which means they are in the public domain and can be searched on Companies House, providing the most up to date information. You can find company details at this link <https://find-and-update.company-information.service.gov.uk/>"
7. Following an internal review the Council wrote to the complainant on 5 June 2024. It stated that:
- "[name redacted] is not employed by Brent Council and we cannot respond to letters not addressed to the Council. We note from your email that you have made requests for information separately addressed to an organisation called Londonewcastle (Kilburn) Limited (and not requests to Brent Council) and they would need to acknowledge your correspondence, separately from Brent Council..."
- We can confirm that we have fulfilled our duties under the Freedom of Information Act 2000 in providing you with a response within 20 working days."

Scope of the case

8. The complainant contacted the Commissioner on 11 June 2024 to complain about the way their request for information had been handled.
9. The complainant, in their initial submissions, presented the Commissioner with a document alleging that "[named redacted] is a Director of the London Borough of Brent a company who is the controller of my personal data and shared my personal data with other organisations, and other third-party companies.

London Borough of Brent (Brent Council) is a public organisation hiding behind various companies listed on Companies House and it is very difficult to find who the director of Brent Council is, though not impossible.

EG:

The London Borough of Brent is listed as THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT. <https://find-and-update.company-information.service.gov.uk/officers/fVEOesOBtxWxeEk82jJGLQ6boDI/appointments>

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT (The London Borough of Brent) has one appointment; SOUTH KILBURN QP LLP

SOUTH KILBURN QP LLP has been dissolved on 28 May 2024, a month after I submitted my FOIR?

However, if you click the link to find the true directors for THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT (The London Borough of Brent) you are brought to the following page.. <https://find-and-update.company-information.service.gov.uk/company/OC421462/officers>

On this page you will see the true director of THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF BRENT (The London Borough of Brent) as being Londonewcastle (Kilburn) Limited.

The company registration number, again obfuscated, is 11206775

Londonewcastle (Kilburn) Limited (a company) is listed as the director of the London Borough of Brent (Brent Council), the director of Londonewcastle (Kilburn) is [name redacted].

Brent Council state in their email that [name redacted] is not employed by Brent Council (The London Borough of Brent). The email fails to state that [name redacted] is a director of Brent Council (The London Borough of Brent).

All Brent Council did was attach my correspondence to their email. Brent Council's email did not answer my FOIR."

10. In a later email to the Commissioner, the complainant stated:

"Now, given that it is proven that [name redacted] is the director of The London Borough of Brent, it is his duty to deal with my FOIR, which in fairness he did in part, because I received a reply to my FOIR from The London Borough of Brent on 29 April 2024, stating that they have closed my request even though my FOIR was not answered in full?

On the 5 June 2024, I received a further, and final, response from The London Borough of Brent regarding my FOIR, where they, The London Borough of Brent, state that [name redacted] is NOT employed by Brent Council.

This is either compartmentalisation, i.e. the individual is totally unaware that [name redacted] is a director of The London Borough of Brent, or the individual is aware who [name redacted] is, but is concealing this fact.

Regardless, [name redacted] was given my FOIR and it is he who is concealing information.

The FOIR I sent The London Borough of Brent clearly stated that I requested full disclosure under the Freedom of Information Act 2000 within Twenty (20) working days from the date of the FOIR. This has not happened.

The London Borough of Brent is a public organisation, which is paid for by the public, and should answer to the public.

All FOIR's were sent to The London Borough of Brent, including a Reminder on 5 June 2024, and a Notice of FOIR Non-Compliance on 11 June 2024, via Royal Mail Signed for and via email. I also included a Letter of Vulnerability in my FOIR dated 10 April 2024."

11. Based on the above, the Commissioner understands the complainant's position to be that a private individual - in their assumed capacity as director of the London Borough of Brent and therefore a representative of the public authority - should have responded to information requests they submitted on 10 April 2024, 5 June 2024 and 11 June 2024. The

complainant states that as the Council did not respond to these information requests it is in breach of FOIA.

12. The Commissioner will address these concerns in the "Other Matters" section at paragraph 22 below.
13. During the course of the Commissioner's investigation, the Council elected to rely on section 21 to withhold information sought by parts [5], [6] and [7] of the request of 3 April 2024.
14. The Commissioner therefore considers that the scope of his investigation is to determine whether the Council is entitled to rely on section 21.

Reasons for decision

Section 21 – information accessible to the applicant by other means

15. Information is exempt from disclosure if it is accessible to the applicant by other means.
16. Section 21 is an absolute exemption which means there is no requirement to carry out a public interest test if the requested information is exempt.
17. Unlike most exemptions, the circumstances of the applicant can be considered, as the information must be reasonably accessible to the particular applicant.
18. It is reasonable for a public authority to assume that information is reasonably accessible to the applicant as a member of the general public until it becomes aware of any particular circumstances or evidence to the contrary.

The Council's position

19. The Commissioner contacted the Council and asked it to confirm whether it held information within scope of parts [5], [6], and [7] of the complainant's request of 3 April 2024 and whether it was relying on any of the provisions contained in FOIA to withhold it, as its response of 29 April 2024 was unclear. In an email to the Commissioner, the Council explained:

"Regarding questions 5 to 7 of the complainant's request, I can confirm that Brent Council holds the requested information. However, we are relying on Section 21 of the Freedom of Information Act (FOIA) to

withhold the information, as it is reasonably accessible to the requester via the Companies House website.

To assist further, please find the following link to the Certificate of Incorporation for South Kilburn QP LLP that can be found on the Companies House website: [SOUTH KILBURN QP LLP filing history - Find and update company information - GOV.UK \(company-information.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/115444/SOUTH_KILBURN_QP_LLP_filing_history_-_Find_and_update_company_information_-_GOV.UK_(company-information.service.gov.uk).pdf)

South Kilburn QP LLP was a Limited Liability Partnership (LLP) established by Brent Council and Londonewcastle (Kilburn) Limited for a proposed joint development of sites in Queen's Park, South Kilburn. However, the development did not proceed and South Kilburn QP LLP has subsequently been dissolved.

As can be seen from the Certificate of Incorporation, both "The Mayor and Burgesses of the London Borough of Brent" and "Londonewcastle (Kilburn) Limited" are listed as members of the LLP. In the context of an LLP, these members hold equivalent status to directors in a limited company.

Additionally, by checking the Companies House listing for Londonewcastle (Kilburn) Limited (Company No. 11206775), you will note that it is owned by "London & Newcastle (Capital) Limited" (Company No. 0580861), with [redacted] listed as a director of both Londonewcastle (Kilburn) Limited and London & Newcastle (Capital) Limited.

For clarity, while Brent Council holds information related to these entities, this information is available on the Companies House website. I would also like to confirm that "The Mayor and Burgesses of the London Borough of Brent" does not have directors, as it is a local authority and not a company.

Lastly, I would like to clarify that [name redacted] is not a director of the London Borough of Brent. It will be noted from Companies House that he is a director of a number of companies, including the aforementioned Londonewcastle (Kilburn) Limited and London & Newcastle (Capital) Limited.

The Commissioner's position

20. The Commissioner is satisfied that the information requested at parts [5], [6] and [7] of the request of 3 April 2024 is reasonably accessible to the complainant at the Companies House website, and that the Council is entitled to rely on section 21 to refuse to provide it in response to their request.

21. The Commissioner notes from the evidence provided by the complainant that they have already sourced this information from Companies House.

Other matters

22. The Commissioner has reviewed the information requests that the complainant has submitted to a private citizen whom they are claiming is employed by the Council. The Council has explained at paragraph 19 above that this individual is not employed by the Council, and that the Council does not have directors as it is a public authority and not a company. Whether this private individual is or is not an employee of the Council is not a matter for the Commissioner to determine.
23. The Commissioner notes that the information requests were made to the director of a private company, at that private company's address, and that the material substance of the requests is for information about that private company's accounts. Consequently, they are not valid requests for information held by a public authority, as defined at schedule 1 of FOIA.
24. He is aware that the complainant also submitted copies of their requests to the Council. However, per paragraph 23 above, the Council is not obligated to respond.

Right of appeal

25. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

26. 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.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Jonathan Slee
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