

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

### **Decision notice**

**Date:** 5 November 2024

**Public Authority:** Oxford University Hospitals NHS Foundation Trust

**Address:** John Radcliffe Hospital  
Headly Way  
Headington  
Oxford  
OX3 9DU

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

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1. The complainant has requested information about policies and plans connected to the potential introduction of a Workplace Parking Levy scheme. Oxford University Hospitals NHS Foundation Trust ('the Trust') stated that it did not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the Trust does not hold the requested information. The Commissioner also finds that the Trust breached section 10(1) of FOIA by failing to provide a response to the requests within 20 working days.
3. The Commissioner does not require formal steps.

#### **Requests and response**

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4. On 22 February 2024, the complainant wrote to the Trust and requested information in the following terms:

"Oxfordshire County Council plans to introduce a workplace parking levy on organisations who have large car parks in Oxford in the next couple of years, after having agreed the policy in principle some time ago.

Unless ultimately exempt, is likely that the Oxford University Hospitals NHS Foundation Trust would incur large annual WPL charges under this scheme, possibly running into millions of pounds annually across its various Oxford sites.

I would like to understand Oxford University Hospitals NHS Foundation Trust's position on this charge - specifically, any policy which has decided who, and how, the charge will ultimately be paid by (the trust, staff or other).

I would therefore like to see:

- a) any policy document which sets out the Trust's overall policy on the Workplace Parking Levy, either internally, or as communicated to Oxfordshire County Council (or both)
  - b) if the Trust's WPL agreed policy is to directly charge employees / contractors or others, any policy that sets out how that approach will be implemented.
  - c) if the trust has decided to absorb the direct cost of the WPL, any documents that sets out how it will do so (i.e. from reserves, from annual spending, by increasing parking charges on staff and / or patients)."
5. On 27 February 2024, the complainant wrote to the Trust again and requested information in the following terms:

"Oxfordshire County Council plans to introduce a workplace parking levy on organisations who have large car parks in Oxford in the next couple of years, after having agreed the policy in principle some time ago.

Informal estimates, undertaken by residents (assuming the WPL charge is set at £600 per car parking space, per year), have estimated that the WPL will pose a significant financial burden on the Oxford University Hospitals NHS Foundation Trust, which charges running into hundreds of thousands of pounds annually on some sites.

In light of this, I am writing to ask to be provided with:

- a) any estimates regarding the number of staff car parking sites across the Oxford University Hospitals NHS Foundation Trust estate, ideally broken down by site.
- b) any annual estimated costs to the Trust by the WPL, produced on the assumption that the levy may be applied to the Trust."

6. The Trust provided one response to both requests on 14 May 2024. It stated that it did not hold any relevant information.
7. Following an internal review, the Trust wrote to the complainant on 18 June 2024. It maintained its position that it did not hold any relevant information.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 2 July 2024 to complain about the way their request for information had been handled.
9. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, the Trust holds the requested information.

### **Reasons for decision**

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#### **Section 1 – general right of access to information**

10. Section 1 (1) FOIA states that:

“Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him.”

11. Section 1(1) requires that a public authority must inform a requestor, in writing, whether it holds information falling within the scope of the request. If the public authority does hold relevant information, FOIA also requires that it communicates that information to the requestor, subject to any exclusions or exemptions applying.
12. In scenarios where there is some dispute between the amount of information held which a public authority says it holds, and the amount of information that a complainant believes is held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
13. In other words, in order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any - or additional - information which falls within

the scope of the request (or held any at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.

14. The Commissioner has therefore sought to determine whether, on the balance of probabilities, the Trust holds the requested information.
15. In this case, the requested information relates to a Workplace Parking Levy scheme ('WPL') proposed by Oxfordshire County Council. The scheme, if approved, would involve an annual charge to employers for workplace parking places they provide and employers could pass some or all of the charge on to employees who drive to work. The money raised by the WPL would be used to improve transport in the city, including bus services and walking and cycling infrastructure, and to cover the cost of implementing and running the scheme.

### **The complainant's position**

16. In their internal review response, the complainant did not accept that the Trust did not hold any information relating to the WPL. They stated:

"At the very least, I am very surprised that the trust has (apparently) never sought to audit, and formally document, the extent its staff car parking portfolio. Does the trust's estates department, for example, not have any record of the size of this staff car parking portfolio? Has the size of the car park estate never featured in any budget planning documentation, by reference to revenues generated by this car parking provision? Or in any calculations associated with the issuing of staff parking permits? In seeking to provide me with the information I have requested regarding the number of trust staff car parking spaces, please be creative, in terms of seeking out the information I am requesting within your document repository.

In relation to my second query, given that the WPL potentially imposes a levy liability of more than £1m per year on the trust, I struggle to comprehend that the trust has not yet undertaken a potential audit of its WPL liabilities, ahead of the possible imposition of the WPL in the trust in the near future. Does this potential liability not feature on your risk register, or your budget forecasts for the next few years (for example)? Again, please be creative, in terms of where any such calculations may have been made, and recorded, on the trust's computer systems."

17. The complainant explained that they had seen published evidence, in the form of news articles, that already indicated that a review of staff car parking at the Oxford hospitals was already underway, with a view

to car parking reduction. They added that another article mentioned that a reduction of 136 staff parking spaces had already been planned.

### **The Trust's position**

18. In its internal review response to the complainant the Trust explained that no parking space reductions had been planned in relation to the WPL. The Trust stated that:

"Currently there is not Workplace Parking Levy in Oxford city or in Banbury where our hospitals are based. Until we have clarity that this scheme will go ahead, we have no plans to divert resources and no plans to reduce parking related to the WPL."

19. The Trust explained that the reduction of 136 staff car parking spaces was due to an unrelated project to accommodate a new building. It added that it had secured offsite parking for staff to counterbalance this reduction.

20. In its submission to the Commissioner, the Trust explained that its Chief Estates and Facilities officer had confirmed that the WPL is currently still only a concept that hasn't even entered consultation. Therefore, the Trust does not yet have any plans in place to deal with the WPL.

### **The Commissioner's conclusion**

21. The Commissioner notes that the complainant's view appears to be that, whilst the WPL scheme may still be in development, a prudent public authority should already have begun its preparatory work.

22. However, the Commissioner notes the Trust's explanation that the scheme is currently only a concept. From Oxfordshire County Council's website, the Commissioner notes that the WPL is only in its early stakeholder engagement phase with approval not anticipated until 2026. Implementation will not take place until 2027.

23. The Commissioner finds the Trust's explanation for why it does not hold the requested information in relating to the WPL to be reasonable.

24. The WPL scheme is currently a proposal in its early consultation stage. It will require sign-off and would only be implemented in a number of years' time.

25. The Trust's position appears to be that it does not wish to divert resources to focus on a scheme whose concept (let alone final design) has yet to be formally agreed. The Commissioner does not consider this to be an unreasonable position and considers that the Trust still has ample time to make any preparations it needs to make.

26. Having considered this case, the Commissioner has concluded that, on the balance of probabilities, the Trust does not hold the requested information concerning the WPL.

### **Procedural matters**

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27. In their complaint to the Commissioner, the complainant has expressed dissatisfaction with the way that the Trust has handled their requests.
28. The complainant has explained that they have submitted three requests for information on the WPL. For two of these requests, the Trust did not provide a response within 20 working days and the complainant had to approach the Commissioner for action.
29. For the requests covered in this case, submitted on 22 and 27 February 2024, the Trust did not provide a response until 14 May 2024. The Commissioner therefore finds that the Trust breached section 10(1) of FOIA by failing to provide a response to the requests within 20 working days.

### **Other matters**

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30. The complainant also stated that the Trust did not respond to their request for internal review on two of their requests. The Trust provided the Commissioner with a copy of the internal review response of 18 June 2024 that covered the three requests. The Commissioner notes that the complainant used the WhatDoTheyKnow website to submit their requests, and that the Trust has only posted its internal review response on one of the threads.
31. There is nothing to prevent a public authority from carrying out a single internal review covering multiple requests and responses. Indeed it may make the process more efficient for both parties. Where this is done however, the public authority should be clear that the internal review covers more than one request. It should also ensure that the review addresses each request.
32. As the internal review request was submitted on 17 May 2024, and the Trust provided its internal review response on 18 June 2024, the Commissioner finds that the Trust responded just outside 20 working days but within the maximum permitted timeframe of 40 working days.

33. The Commissioner considers that it was clear, from the response the public authority provided, that all three requests were being dealt with in a single review.
34. The fact that the complainant chose to submit three separate requests via [whatdotheyknow.com](http://whatdotheyknow.com) does not entitle them to receive three separate internal reviews or even three separate copies of one internal review.

## Right of appeal

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35. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

36. 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.
37. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Keeley Christine**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
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**SK9 5AF**