

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

### **Decision notice**

**Date:** 28 January 2025

**Public Authority:** Wyre Council  
**Address:** Civic Centre  
Breck Road,  
Poulton-le-Fylde  
FY6 7PU

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

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1. The complainant requested a copy of the food hygiene inspection report for a restaurant. Wyre Council ("the Council") refused the request citing section 30(1)(b) (investigations and proceedings conducted by public authorities) of FOIA.
2. The Commissioner's decision is that the Council was entitled to rely on section 30(1)(b) of FOIA to refuse to provide the requested information.
3. The Commissioner does not require the Council to take any further steps.

## **Request and response**

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4. On 25 April 2024 the complainant wrote to the Council and requested a copy of a food hygiene report for a specific premises.
5. The Council responded on 27 June 2024 and confirmed that it was withholding the information under the exemption in section 30(1)(b) (investigations and proceedings conducted by public authorities) of the FOIA.
6. On 8 August 2024 the complainant asked the Council to carry out an internal review.
7. Following an internal review the Council wrote to the complainant on 12 September 2024 and confirmed that it was maintaining its position.

## **Scope of the case**

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8. On 1 October 2024 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
9. The Commissioner has considered whether the Council was entitled to withhold the requested information.

## **Reasons for decision**

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### **Section 30 – investigations**

10. Section 30(1)(b) provides that information is exempt if it has been held at any time for the purposes of any investigation which is conducted by the authority and in the circumstances may lead to a decision by the authority to institute criminal proceedings which the authority has the power to conduct.
11. The phrase "at any time" means that information is exempt under section 30(1) if it relates to an ongoing, closed or abandoned investigation. It extends to information that has been obtained prior to an investigation commencing, if it is subsequently used for this purpose.
12. Section 30 is also a class based exemption. This means that it is not necessary to demonstrate that disclosure would lead to any kind of prejudice in order to engage the exemption, only that the request falls within the class of information which the exemption is designed to protect.

13. Section 30(1) can only be relied upon by public authorities that have a duty to investigate whether someone should be charged with an offence.
14. The withheld information in this case comprises a food hygiene inspection report of a restaurant.
15. The Commissioner understands that the Council has the power to conduct an investigation in relation to food hygiene under Section 222(1)(a) of the Local Government Act 1972 and more specifically, the Food Safety and Hygiene (England) Regulations 2013.
16. The Commissioner is satisfied that the Council is a Food Authority as defined by section 5(1)(a) of the Food Safety Act 1990. He also notes that section 6(2) of the Act states that every food authority shall enforce and execute the provisions of the Act, whilst Section 6(5) states that an enforcement authority may institute proceedings under provisions of the Act, or any regulations or orders made under it. The Food Safety and Hygiene (England) Regulations 2013 are made under the Food Safety Act
17. The Commissioner has reviewed the withheld information and is satisfied that the inspection was carried out to consider food hygiene offences under the Food Safety and Hygiene (England) Regulations 2013 and the Food Safety Act 1990. It is also clear that the Council, as a food authority, has the power to investigate potential criminal breaches of food safety legislation and to institute proceedings. Therefore, the Commissioner is satisfied that the section 30(1)(b) exemption is correctly engaged and he has now gone on to consider the public interest test, balancing the public interest in disclosure, against the public interest in maintaining the exemption.

### **Public interest factors in favour of disclosure**

18. The complainant has argued that here is a strong public interest in disclosing food hygiene information. This is because it concerns public health and safety, and consumers have a right to know how well food businesses comply with hygiene standards.
19. The Commissioner considers that there is a general public interest in promoting transparency about public authority decision making processes and, specifically, to inform people of potential health risks connected with specific businesses.

### **Factors in favour of maintaining the exemption**

20. The Council has confirmed that, at the time of the request, its investigations into the business in question was ongoing. It has argued that disclosure of the requested information would make it harder for it

to carry out its investigations regarding the business in question, and to institute legal proceedings should it prove necessary.

21. The Council confirmed that it had directed the complainant to the published summary rating for the business for the business in question. In the Council's view, this provides sufficient information to meet the public interest in awareness of the potential risks of obtaining food from a specific business.

### **Balance of the public interest arguments**

22. The Commissioner accepts that there is a public interest in disclosure of food hygiene inspection reports as it would promote transparency and accountability in how the Council carries out its responsibilities as a food authority. In particular, such transparency could ultimately help to improve food hygiene standards by both promoting good practice and highlighting businesses that need to make improvements. It might also be argued that such transparency could also improve the standards of inspections and decisions taken by Food Authorities, such as the Council.
23. A further argument in favour of disclosure is that it is in the public interest to disclose information about businesses which do not meet the required standards of food hygiene so that the public may decide whether or not to use their services.
24. However, the Commissioner is mindful that the Food Hygiene Rating Scheme provides the public with information about the hygiene standards in food premises. The rating is publicly available for anyone to view. This does, to an extent, allow the public to make informed choices about which food businesses to use and so reduces the case for disclosure somewhat.
25. Additionally, there will always be a strong public interest in maintaining the section 30 exemption where an investigation is ongoing. It is accepted that whilst investigations and prosecutions are ongoing, public authorities require a safe space in which to operate and premature disclosures could create media pressure which could present problems for the judicial processes.
26. The Commissioner accepts that in this case, there is a significant public interest in protecting the integrity of ongoing investigations so as not to compromise it, or any future legal proceedings.
27. The Commissioner therefore considers that although there is a public interest in disclosure, given that the investigation was still live at the time of the request, the public interest in disclosure is outweighed by the public interest in maintaining the section 30(1)(b) exemption.

## **Other matters**

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28. Although they do not form part of this decision notice the Commissioner would like to note the following matters of concern.

### **Section 45 code of practice – internal reviews**

29. The code of practice issued under section 45 of the FOIA (the "Code") sets out recommended practice for authorities in relation to the handling of requests<sup>1</sup>.
30. In relation to internal reviews, paragraph 5.4 of the Code recommends that these should usually be completed within 20 working days.
31. In this case the Council failed to complete its internal review in 20 working days. In future the Council should ensure that its request handling practice conforms to the recommendations of the Code and the Commissioner's guidance.

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[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/744071/CoP\\_FOI\\_Code\\_of\\_Practice\\_-\\_Minor\\_Amendments\\_20180926\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/744071/CoP_FOI_Code_of_Practice_-_Minor_Amendments_20180926_.pdf)

## **Right of appeal**

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32. 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)

33. 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.
34. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Christopher Williams**  
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**Information Commissioner's Office**  
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