

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 February 2025

Public Authority: Liverpool City Council
Address: Cunard Building
Water Street
Liverpool L3 1AH

Decision (including any steps ordered)

1. The complainant requested information on company cars used by Liverpool Street Scene Ltd. Liverpool City Council (the "Council") confirmed that it did not hold the requested information. The complainant disputes this.
2. The Commissioner's decision is that the Council correctly confirmed that it does not hold the information and complied with section 1(1) but that it failed to do this in time and breached section 10(1).
3. The Commissioner does not require further steps.

.

Request and response

4. On 18 April 2024 the complainant requested the following information from the Council:

"1. Over the last 7 years how many people at Liverpool Street Scene Ltd (LSSL) have had a personal company car?

2. Broken down yearly over the 7 years, please provide the make, model, cost , and person the personal company car was attributed to?"
5. The Council responded on 25 June 2024 and stated:

"Liverpool City Council does not hold this information, this is held by Liverpool Streetscene Services Limited which is a separate company."
6. On 25 June 2024 the complainant asked the Council to carry out an internal review. At the time the complaint was submitted to the Commissioner, the Council had not issued an internal review response.

Scope of the case

7. On 15 October 2024 the complainant contacted the Commissioner on to complain about the way their request for information had been handled.
8. During his investigation the Council advised the Commissioner that on 25 February 2025 it had provided the complainant with its internal review response. This confirmed that the information was not held and directed the complainant to contact Liverpool Streetscene Services Limited (LSSL) for the information.
9. The Commissioner has considered whether the Council's handling of the request complied with the FOIA.

Reasons for decision

Section 1 – duty to provide information held

10. Section 1 of the FOIA states:

“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 10(1) of the FOIA requires authorities to provide a response under the terms of section 1(1) within 20 working days.

12. In this case the Council confirmed that it did not hold the information and advised them to redirect their request to LSSL.

13. The complainant disputes the Council’s position and has argued that LSSL is wholly owned by the Council and that any information held by LSSL should, therefore, also be held by the Council.

14. The criteria for the designating of an organisation as a public authority is set out in section 3 of the FOIA.

15. Section 3(1)(b) confirms that “...a publicly-owned company as defined by section 6...” qualifies as a public authority in its own right. Section 6(1)(b) clarifies that an organisation can be considered to be a publicly-owned company if it is “...wholly owned by the wider public sector”¹.

16. The Commissioner’s guidance provides examples of organisations which fit into the category of a publicly-owned company and confirms that public authorities may set up companies in the local government sector, usually to provide specific public services². Such an organisation would, therefore, be a public authority in its own right, with its own responsibility for handling requests under the FOIA.

17. The Council has confirmed that LSSL is a wholly owned subsidiary of the Council and that LSSL is, therefore, a public authority in its own right.

¹ <https://www.legislation.gov.uk/ukpga/2000/36/contents>

² <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/public-authorities-under-foia/>

18. The Council confirmed that it has a number of contracts with LSSL to deliver a range of key services with agreed outputs for an annual contract value. It explained that functions are undertaken in accordance with a contract specification and performance is monitored through the achievement of Key Performance Indicators.
19. The Council confirmed that LSSL is responsible for ensuring it can deliver these services to the required quality standards and performance outputs determined by the Council. It explained that the Council has the ability within the contracts to determine which functions are to be delivered but also has the flexibility to request service delivery be modified or adapted within the allocated contract value, should their requirements change. It confirmed that the Council does not have involvement in the day to day running of LSSL; this is the responsibility of the Chief Operating Officer of LSSL, who reports to the LSSL Board of Directors.
20. The Council has confirmed that all decision making including the provision of company vehicles within LSSL would, therefore, fall within the scope and responsibility of the Chief Operating Officer and senior leadership team to determine. The Council has also confirmed that it does not need to access the requested information for its own purposes so the information is not held by LSSL on the Council's behalf³.
21. Having considered the available evidence the Commissioner is satisfied that LSSL is a public authority in its own right and that it does not hold the requested information on the Council's behalf. Nor does the Council hold the information itself. It, therefore, follows that the Council correctly confirmed to the complainant that it does not hold the requested information and complied with section 1(1).
22. In this case the request was submitted on 18 April 2024 and the Council provided its response on 25 June 2024. As this falls outside 20 working days the Commissioner finds that the Council breached section 10(1).

³ Section 3(2)(b) of the FOIA provides that information is held by a public authority for the purposes of a request if the information is held by another authority on its behalf:
<https://www.legislation.gov.uk/ukpga/2000/36/section/3>

Other matters

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

Internal reviews

24. The code of practice issued under section 45 of the FOIA (the "Code") sets out recommended practice in relation to the handling of requests⁴.
25. The Code recommends that authorities should have a procedure in place for dealing with disputes about its handling of requests for information. The Code confirms that such a procedure, known as an internal review, should usually be completed within 20 working days.
26. In this case the Council issued its internal review response to the complainant during the Commissioner's investigation, some considerable time outside the recommended timeframe. The Commissioner, therefore, considers that the Council's practice here did not confirm to the recommendations of the Code. In future he expects the Council to ensure internal reviews are completed in time.

Advice and assistance

27. Paragraph 2.11 and 2.12 of the Code sets out recommendations for scenarios where an authority does not hold information but is aware that a different authority might:

"2.11 There will be occasions when a public authority is not able to comply with a request (or to comply with it in full) because it does not hold the information requested.

2.12 In most cases where a public authority does not hold the information, but thinks that another public authority does, they should respond to the applicant to inform them that the requested information is not held by them, and that it may be held by another public authority. The public authority should, as best practice where they can, provide the contact details for the public authority they believe holds the requested information."

28. In this case the Council advised the complainant that the information they requested might be held by a separate authority (LSSL) but did not provide relevant contact details until the internal review.
29. In light of the above the Commissioner considers that the Council's handling of this element of the request did not follow the recommendations of the Code.
30. In general, the Commissioner considers that following the Code's recommendations makes it more likely that a requester will be satisfied with the handling of their request. It follows that they will then be less likely to refer their concerns to the Commissioner, resulting in inconvenience to them and additional burden on public resources.
31. In future the Commissioner expects that the Council's practice will conform to the recommendations of the Code.

Right of appeal

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

Website: 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
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF