

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 28 September 2015

**Public Authority:** Leeds City Council

**Address:** Civic Hall  
Leeds  
LS1 1UR

#### Decision (including any steps ordered)

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1. The complainant has requested copies of marriage notices. Leeds City Council (the council) refused the request relying on section 21 of the FOIA, as it determined that the information is reasonably accessible to the applicant by other means.
2. The Commissioner's decision is that the council is able to rely on section 21 of the FOIA to refuse the request.
3. The Commissioner does not require the council to take any steps.

#### Request and response

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4. On 3 June 2015, the complainant requested the following information from the council:

*"Under the Freedom of Information Act 2000, please provide me with copies of the following: Notices of Marriages currently on display from todays date. All that are available. I understand that under the Act I am entitled to a response within 20 working days of your receipt of this request. Some parts of the request may be easier to answer than others. Should this be the case, I request that you release information as soon as possible. If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material. I reserve the right to appeal*

*your decision to withhold any information or to charge excessive fees. I would prefer to receive the information electronically."*

5. The council responded on 8 June 2015. It refused the request under section 21 of the FOIA – information reasonably accessible to the applicant by other means. The council advised the complainant that the information is available by public inspection at its registrar's office.
6. The complainant requested an internal review on the 8 June 2015 as she was not satisfied with the council's response. In her internal review request she outlined her reasons as to why she was not satisfied with the council's reliance on section 21 of the FOIA, stating:

*"Should someone like myself have a[sic] illness or disability of the eyes or head that limits or makes viewing a moving screen difficult then it is very inaccessible. This would mean that the format your offering (moving screen) is not easily accessible to members of the public. It is my personal right to view this information privately without having to rely on assistance. It is information that should be clearly accessible to all members of the public and should be clearly displayed. Which it is not."*

7. She also asked the council if it could *"clarify if the information is available in any other format ie: large print or audio etc."*
8. The council provided the outcome of its review on 12 June 2015 upholding its original response. It further explained that the requested information changes daily with the addition of approximately 30 new notices and the removal of approximately 30 expired notices, so considered that it would be impractical to provide the requested list in other formats on an on-going basis to assist customers who are unable to read the screen.
9. But as a reasonable adjustment, it advised the complainant that it can provide a personal assisted search of the notices for customers who are unable to read the screen.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 12 June 2015 as she was not satisfied with the council's refusal under section 21 of the FOIA.
11. The Commissioner considers the scope of the case is to determine whether the council is correct to rely on section 21 of the FOIA to refuse the request.

## Reasons for decision

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12. Section 21 of the FOIA says that information is exempt from disclosure if it is reasonably accessible to the applicant by other means. In the Commissioner's guidance<sup>1</sup> for section 21 of the FOIA, the Commissioner explains that subsection (1) describes the fundamental principle underlying this exemption. That is, in order to be exempt, the requested information must be reasonably accessible 'to the applicant'. Unlike consideration of most other exemptions in the FOIA, this allows the public authority to take the individual circumstances of the applicant into account.
13. In effect, a distinction is being made between information that is reasonably accessible to the particular applicant and the information that is available to the general public. In order for section 21 to apply, there should be another existing, clear mechanism by which the particular applicant can reasonably access the information outside of the FOIA.
14. So to assess whether section 21 of the FOIA has been correctly applied will depend on whether or not the requested information is reasonably accessible to the applicant who has requested it. Information is only reasonably accessible to the applicant if the public authority:
  - knows that the applicant has already found the information; or
  - is able to provide the applicant with precise directions to the information so that it can be found without difficulty. When applying section 21 of the FOIA in this context, the key point is that the authority must be able to provide directions to the information.
15. As in this case, where information is only available by inspection, it may still be possible to regard this information as being reasonably accessible to all applicants on the basis that it is reasonable that information is only available in a certain location.
16. The council has told the Commissioner that there is a separate regime governing public access to particulars given in notices of marriage under section 27(4) and (4A), and 31(1) of the Marriage Act 1949.

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<sup>1</sup> <https://ico.org.uk/media/1203/information-reasonably-accessible-to-the-applicant-by-other-means-sec21.pdf>

17. It has summarised these obligations in that the superintendent registrar is under obligation to file all notices of marriage and keep them with his records office, and to enter the particulars provided in the notices in the marriage notice book provided by the registrar general.
18. This marriage notice book must be open for inspection free of charge at all reasonable hours. This duty to enter information in the marriage notice book may be discharged by entering the information in an approved electronic form, and this information again, must be available to members of the public free of charge at all reasonable times. In addition to this, the superintendent registrar must display the notices in his office for 28 days after the notice was entered, or where the notice was entered in an approved electronic form, he must display them in the approved electronic form.
19. So in this case, when the Register Office receives the notices, they are entered in the national Registration On-Line (RON) data system, which is an approved electronic form. These notices are then loaded from the RON system onto a computer terminal which is located on the reception desk at the offices of the Leeds Register Office at 2 Great George St, Leeds.
20. The office is open Monday to Thursday 8:30am to 5pm and 9:30am to 5pm Fridays and is wheelchair accessible. The notices are on a constant electronic display, rotating at set intervals and are updated with new notices being added and expired notices (those which have been displayed for the statutory 28 days period) removed.
21. The council has stated that the complainant raised the issue whether viewing a moving screen could be difficult for someone with an illness or disability of the eyes or head. It advised that the staff at the Register Office, when the complainant visited, did not suggest she had an illness or disability, just she thought the screen was moving too quickly. Also the council has explained in its internal review that if any member of public said they were finding it difficult to inspect the screen for whatever reason, then a member of the Register Office staff would help them find the information they were looking for.
22. The complainant has expressed to the Commissioner that she considers the screen is located in a busy reception where people are queuing and it is in close proximity to the staff. She considers this location to be quite invasive and not very private.
23. The Commissioner on consideration of the above does not consider that the complainant's reasons, that being the location of the information not being in a very private location, to be sufficient enough to override the principle of section 21 of the FOIA. Also the council has, in the

Commissioner's opinion, identified the way in which it can make adjustments for people who may have the disabilities described by the complainant, in that, its staff are available to assist them to obtain the information at the offices.

24. She has also expressed to the Commissioner dissatisfaction with a member of the register office staffs customer service. In the Commissioner's view, this would be a service standards issue and it may be something that she needs to address with the council directly.
25. Lastly, the council's explanations in how the information is required to be displayed and the fact that the information changes on a daily basis and each notice is updated every 28 days, in the Commissioner's view, would make it impractical for the council to have to provide this information in the way requested by the complainant and considers it reasonable for her to access the information at the register office and that there are sufficient adjustments in place should help be needed to obtain the information whilst there.
26. So on consideration of the circumstances of this case, the Commissioner finds that the council was correct to refuse the request under section 21 of the FOIA as it appears that the information can be readily obtained by the complainant at the office.

## Right of appeal

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27. 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: 0870 739 5836

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)

28. 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.
29. 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**