

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

### Decision notice

**Date:** 28 January 2016

**Public Authority:** Manchester City Council  
**Address:** Town Hall  
Albert Square  
Manchester  
M60 2LA

#### Decision (including any steps ordered)

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1. The complainant has requested information relating to parking enforcement at Manchester Airport, London Stansted Airport, East Midlands Airport and Bournemouth Airport. The Commissioner's decision is that Manchester City Council does not hold the requested information. While he notes that the information is held by Manchester Airports Group Ltd, he is satisfied that it does not hold the information on behalf of Manchester City Council. The Commissioner does not require the public authority to take any steps to ensure compliance with the legislation.

#### Request and response

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2. On 27 July 2015, the complainant wrote to Manchester City Council ('the council') and requested information in the following terms:

"For clarification I understand that Manchester City Council is a major shareholder in the Manchester Airports Group (see attached), and that this company owns and runs Manchester, London Stansted, East Midlands and Bournemouth Airports. I would like the following information to be provided.

- 1) A copy of all contracts for parking enforcement that cover the period 1st October 2012 to 30th June 2015 at
  - a) Manchester Airport
  - b) London Stansted Airport

- c) East Midlands Airport
  - d) Bournemouth Airport
- 2) The total number of Parking Charge Notices issued from 1st October 2012 to 30th June 2015 at
- a) Manchester Airport
  - b) London Stansted Airport
  - c) East Midlands Airport
  - d) Bournemouth Airport
- 3) The total number of requests made of the DVLA database for registered keeper details for the issuing of Parking Charge Notices for the period 1st October 2012 to 30th June 2015 at,
- a) Manchester Airport
  - b) London Stansted Airport
  - c) East Midlands Airport
  - d) Bournemouth Airport"
3. The council responded on 31 July 2015 stating that it does not hold the requested information as roads within the perimeter of Manchester Airport are not included in the area enforced by Manchester City Council.
4. On 7 August 2015, the complainant requested an internal review.
5. After being asked by the council on 10 August 2015 to provide the reasons why the internal review is being requested, on 13 August 2015 the complainant said he finds the response inadequate in that it refers only to Manchester Airport when the request included 3 other airports. He also said that the information sought is held on the council's behalf by Manchester Airports Group Ltd a company owned by the council along with other local authorities of which the council is the majority shareholder.
6. The council provided an internal review response on 1 September 2015. It confirmed that the requested information is not held by the council. It said that information regarding contracts for parking enforcement at Manchester Airport, London Stansted Airport, East Midlands Airport and Bournemouth Airport is held by the Manchester Airport Group plc (MAG). It explained that although the council own shares in MAG, information in respect of parking contracts, enforcement and notices is not administered or held by the council and that MAG does not for the purposes of the FOIA hold information on behalf of the council. It also said that the MAG is not a wholly publically owned or funded company, and as such is not a public authority under section 6 or schedule 1 of the FOIA.

## Scope of the case

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7. The complainant contacted the Commissioner on 7 October 2015 to complain about the way his request for information had been handled.
8. The Commissioner has considered whether any of the information within the scope of the request is held by MAG on behalf of the council in accordance with section 3(2)(b) of the FOIA.

## Reasons for decision

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9. Section 3(2)(b) of the Act states that:

“(2) For the purposes of this Act, information is held by a public authority if

...

(b) it is held by another person on behalf of the authority.”
10. Whilst the information may be held by MAG, under the terms of the FOIA the information would be held by the council if MAG holds it on the council's behalf.
11. In determining whether the information is held by an organisation on behalf on a public authority the Commissioner makes his decision based on the specifics of the case and a number of aspects such as:
  - The relationship between the two parties.
  - Whether the public authority has access to the information.
  - Whether the public authority has a degree of control over the information.
  - Whether the information is held as a result of a contractual relationship.
12. The Commissioner asked the council questions relating to the above and in relation to the enforcement of parking on the roads within the perimeter of the airports.
13. The council explained that it does not enforce parking on the roads within the perimeter of the airports. The council's understanding is that the airport operating companies, or contractors employed by them, enforce parking on the roads within the perimeters of the airports. It explained that it does not hold information about the specific arrangements relating to parking enforcement within the perimeter of

these airports. It also said that the space within Manchester Airport is not public highway and the council has no statutory responsibility or function for enforcing parking at Manchester Airport or within the other airports operated by MAG.

14. In relation to the nature of the relationship between the council and MAG, the council explained that it holds 35.5% of MAG shares, with the other 9 Greater Manchester district authorities owning 29% equally between them, and Codan Trust Company (Cayman) Ltd owning the remaining 35.5%. It said that MAG is a separate legal entity to the council and operates as an arms-length commercial company. It also said that it is not involved in the day to day operational management of the company.
15. In relation to access to the information, the council explained that whilst it is a shareholder in MAG, the information requested relates to the day to day operational and commercial activities of the company and that the Companies Act 2006, the constitution/articles of the company, and the shareholder arrangements do not grant the council general access rights to such information. It said that it is entitled to information for which it has a business need in order to undertake its role as a shareholder, but the information requested in this case does not fall under this category. The council also explained that it has never sought access to the requested information because MAG is a separate commercial and legal entity in its own right and is separate to the services and functions of the council. It said that the information held by MAG regarding parking arrangements and enforcement is not important to the council's functions or purpose and the council has not had a business need to obtain this information in its role as shareholder. The council also confirmed that the requested information is not required or necessary for any of the council's interests or services.
16. In relation to whether the information is held as a result of a contractual relationship, the council confirmed that there is no contractual arrangement between it and MAG in respect of parking arrangements or parking enforcement within the perimeters of the airports.
17. The council also said that if the information held by MAG was destroyed, this would not hinder the council and that it does not have any degree of control over the information.
18. In order to support the case that the information is held by MAG on behalf of the council, the complainant sent the Commissioner a copy of a letter from the Parliamentary Under Secretary of State for the Department of Transport to all Parking Managers in England with Civil Parking Enforcement powers. The complainant said that the letter

demonstrates that there shouldn't be any private enforcement of parking on any land owned by the council.

19. The Commissioner considers that the letter relates to local authority off-street parking enforcement arrangements. As the council has confirmed that the space within Manchester Airport is not public highway and the council has no statutory responsibility or function for enforcing parking at Manchester Airport or within the other airports operated by MAG, the Commissioner does not consider that the letter is relevant to this case.
20. The Commissioner has taken all the above into account in making a decision in this case. He can understand the complainant's view that because the council is one of two majority shareholders in MAG it could be construed as holding the requested information. However, the issue for this decision is whether the council holds it under the terms of the FOIA. He notes that the council has no statutory responsibility or function for enforcing parking at Manchester Airport or within the other airports operated by MAG; that MAG is a separate legal entity to the council; that the council is not involved in the day to day operational management of the company; that the council has not had a business need to obtain the requested information in its role as shareholder; that the council does not have access to, or control of, the requested information; and that there is no contractual arrangement between the council and MAG in respect of parking arrangements or parking enforcement within the perimeters of the airports. Therefore, on the specific facts of this case, the Commissioner's decision is that under the terms of the FOIA, MAG does not hold the requested information on behalf of the council, and therefore the council does not hold the information under the terms of the FOIA.

## Right of appeal

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21. 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)

22. 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.
23. 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** .....

**Deborah Clark**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**