

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 11 May 2017

**Public Authority:** London Councils  
**Address:** 59 Southwark Street  
London  
SE1 OAL

#### Decision (including any steps ordered)

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1. The complainant has requested from London Councils information relating to training which is issued to parking adjudicators sitting at London Tribunals.
2. The Commissioner's decision is that London Councils does not hold the information for the purposes of the FOIA. Therefore the Commissioner does not require London Councils to take any further steps.

#### Request and response

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3. On 11 November 2016 the complainant wrote to London Councils and requested information in the following terms:  
*"Please provide a list of all training manuals, guidance, advisory circulars, etc. issued to parking adjudicators sitting at London Tribunals."*
4. On 18 November 2016 London Councils responded. It stated that any information which is held by the Parking or Congestion Charging Adjudicators is not publically available under the FOIA.
5. On the same day the complainant asked for an internal review.
6. On 16 December 2016 London Councils provided its internal review response. It upheld its decision not to provide the information and explained that the information is either held by, or purely on behalf of, the adjudicators who are not subject to the FOIA.

## Scope of the case

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7. The complainant contacted the Commissioner on 16 December 2016 to complain about the way his request for information had been handled by London Councils.
8. The Commissioner considers the scope of the case is to determine whether London Councils is correct to state that it does not hold the information requested.

## Reasons for decision

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### Section 1 – information not held

9. Section 1(1)(a) of the FOIA requires a public authority to inform the complainant in writing whether or not recorded information is held that is relevant to the request. Section 1(1)(b) requires that if the requested information is held by the public authority it must be disclosed to the complainant unless a valid refusal notice has been issued.
10. London Councils stated to the Commissioner that it does not believe that the information requested is held by London Councils or on behalf of it.

### Section 3(2) – information held by a public authority

11. Section 3(2) of the FOIA sets out the two legal principles that establish whether information is held for the purposes of the FOIA.
  - (2) For the purposes of the FOIA, information is held by a public authority if-
    - (a) it is held by the authority, otherwise than on behalf of another person, or
    - (b) it is held by another person on behalf of the authority.
12. The Commissioner's position on the interpretation of "held" for the purposes of the FOIA is that when information is solely held by a public authority on behalf of another person, it is not held by the public authority for the purposes of the FOIA. However, the information will be held by that public authority for the purposes of the FOIA if it is holding the information for someone else, and also holding it to any extent for its own purpose.

13. There are also several circumstances in which information is held by another person on behalf of the public authority and therefore held by the public authority for the purposes of FOIA. Examples can be found in the Commissioner's guidance<sup>1</sup> and may for instance include situations where there is an agency arrangement or formal partnership between the bodies.

### **London Councils' position**

14. The Commissioner asked London Councils to explain why information held by, or on behalf of, the Adjudicators is not subject to the FOIA but some information held by the London Tribunals is covered by the FOIA.
15. London Councils explained that Tribunals and courts are not public authorities under the FOIA. It said that the Environment and Traffic and Road Charging Adjudicators constitute legal tribunals which have the same standing as a court of law. London Councils further explained that information held by London Tribunals (the collective name for the two tribunals) and the London Tribunals Support Service, is not subject to the FOIA. London Councils explained that in 2011 the Ministry of Justice had consulted on widening the scope of FOIA and the Parking and Traffic Appeals Service (PATAS) was included on the list of the bodies being considered. No new legislation relating to PATAS/London Tribunals was passed however and so they remain outside of the FOIA.
16. It further added that London Councils is subject to the FOIA and has been delegated functions on behalf of the London local authorities. London Councils reported that one of its duties included appointing the environment and traffic Adjudicators to the independent tribunal and to provide administrative staff and facilities for the Adjudicators. It said that only information relating to these responsibilities which is held by London Councils (including information held at London Tribunals) will be subject to the FOIA.

<sup>1</sup>[https://ico.org.uk/media/fororganisations/documents/1148/informationheld\\_by\\_a\\_public\\_authority\\_for\\_purposes\\_of\\_foia.pdf](https://ico.org.uk/media/fororganisations/documents/1148/informationheld_by_a_public_authority_for_purposes_of_foia.pdf)

17. When asked to confirm whether or not London Councils physically holds the information requested, it stated that it was not held. The Commissioner therefore asked London Councils if it was able to contact London Tribunals for a copy of information relating to training. London Councils said that training, guidance or advisory circulars relating to the Adjudicators' decision making or case management would have to be requested from the Adjudicators. It reiterated that London Councils only provides facilities and administrative support.
18. London Councils further explained that *"the Adjudicators as individual independent officer holders would be under no obligation to comply with this request that would also be perceived to be compromising their independence from London Councils and damaging to the integrity of the tribunals."*
19. The Commissioner next asked London Councils if it considers the information requested to be held on its behalf. London Councils advised that the training and guidance materials would be held on systems provided by London Councils at London Tribunals. Nevertheless, it considers the information requested is purely used by the Adjudicators and the Chief Adjudicators for their own purposes. It does not therefore believe that the information is held by London Councils or on behalf of London Councils.

### **The complainant's view**

20. The complainant understands that London Tribunals is the name of the support service which supports adjudicators sitting at London Tribunals. He pointed out that London Tribunals is operated by London Councils, a public body subject to FOIA.
21. The complainant further argued that if the training manuals and other training materials are produced by an adjudicator during working hours, then he considers that this information is not exempt. He said that this is because the material is the property of London Councils and not of the adjudicator who wrote the training manual.

## **The Commissioner's position**

22. The Commissioner's decision is that the information requested is not held by London Councils for the purposes of the FOIA. This decision is based on the explanations received from London Councils regarding its relationship with the London Tribunals and from its clarification of administrative information and training information.
23. The Commissioner notes that there is not a requirement or business need for London Councils to have the information. There is a clear divide between the work conducted by the Adjudicators and the services offered by London Councils. The Commissioner accepts that the Adjudicators are individual independent officer holders and that they would be under no obligation to comply with a request for the information. She understands that such a request would be perceived to be compromising the Adjudicators' independence from London Councils and damaging to the integrity of the tribunals.
24. Therefore, the Commissioner does not agree with the complainant's view regarding the information (training and guidance materials) which he considers must be covered by the FOIA by virtue of it being produced on systems provided by London Councils. The Commissioner considers instead that the information is used by the Adjudicators for their own purposes and is not held by London Councils or on behalf of London Councils.

## Right of appeal

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25. 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)

26. 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.
27. 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** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**