

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 November 2017

**Public Authority:** East Riding of Yorkshire Council

**Address:** County Hall  
Beverley  
East Riding of Yorkshire  
HU17 9BA

### Decision (including any steps ordered)

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1. The complainant requested information related to taxi and private hire vehicle compliance with the Equality Act 2010. The complainant is not satisfied with the way that East Riding of Yorkshire Council dealt with his request
2. The Commissioner's decision is that East Riding of Yorkshire Council has complied with its obligation under section 1(1) and section 10(1).
3. The Commissioner does not require any further steps.

### Request and response

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4. On 19 April 2017, the complainant wrote to East Riding of Yorkshire Council ('the Council') and requested information in the following terms:  
  
*"1) Please advise if you have produced, or currently intend to produce, a list of wheelchair accessible:  
a) taxis and b) private hire vehicles under the powers set out in S167 of the Equality Act 2010.*  
  
*2) Please identify how many a) taxi and b) PHV drivers have applied for medical / physical impairment exemption under S166 of the Equality Act 2010 since S166 was commenced. If you've created a list*

*under S167, please identify how many of the exemptions were in place before S167 and how many have been put in since.*

*3) Please state whether you voluntarily compiled a list of accessible taxis and private hire vehicles following the Department for Transport's guidance of 15th September 2010, which stated, in relation to section 167, "although the list of designated vehicles will have no actual effect in law until the duties are commenced, we would urge licensing authorities to start maintaining a list as soon as possible for the purpose of liaising with the trade and issuing exemption certificates". If you did produce such a voluntary list, please indicate when you did so, and provide the current list.*

*If you have produced a list of wheelchair accessible taxis and/or private hire vehicles under S167, or are going to, please tell me the following.*

*4) The date the list was instated or by which you intend to do so.*

*5) The accessibility requirements of a taxi for it to appear on the list.*

*6) How you intend to enforce drivers' compliance with S165.*

*7) The list."*

5. The Council responded on 8 May 2017 as follows:

*1a) 1b) "Yes, a list is in place of wheelchair accessible taxis. No PHV with wheelchair accessible facility."*

*2) "None"*

*3) "The list was compiled voluntarily in 2010 and is currently on the Council's website - [www.eastriding.gov.uk](http://www.eastriding.gov.uk)"*

*4) "2010 and updated each year."*

*5) "Fully wheelchair accessible - carry passenger in a wheelchair in the vehicle."*

*6) "By informing of requirements and spot checks, complaints received in relation to any refusals."*

*7) "Attached and updated list on the website."*

6. Following an internal review the Council wrote to the complainant on 18 May 2017. It stated that

*"..from my reading of the correspondence it appears to me that the issues you are raising are not simply requests for information but also submissions from yourself as to the extent to which the Council has or has not exercised its powers under s167 of the*

*Equality Act 2010. With regard to the former I will provide a response under the Freedom of Information Act 2000. With regard to the latter all I can do is to transmit your comments to the relevant department of the Council. In terms of the questions and comments you have made –*

*The question you asked was if we had produced or currently intend to produce a list of wheelchair accessible taxis and private hire vehicles under the powers set out in s167 of the Equality Act. You have also asked if we do not have such a list whether we intend to have one and if so by when.*

*The answer to your question under the Freedom of Information Act 2000 is that the only information that the Council holds that comes within the scope of your request is the spreadsheet a copy of which has been provided to you.*

*As I understand it you do not consider that this spreadsheet complies with the requirements of s167 of the Equality Act because –*

*It is not marked as 'designated for the purpose of s165 of the Act.'*

*It does not contain the name of the operator.*

*IT has not been published (as it is not on the Council website).*

*I will hand these comments on to the relevant department of the Council."*

7. The Council provided a further response to the complainant on 26 October 2017 following correspondence with the Information Commissioner's Office, in summary:

- Giving confirmation that the Council does not have a current list of wheelchair accessible taxis and private hire vehicles that is compliant with S167 of the Equality Act.
- Providing minutes, of the Councils Cabinet meeting of 17 October 2017 which include an agenda item "Equality Act 2010 Enactments and Taxi Licensing" which contains detail of the Councils plans with regard to the provisions of the act including an agreement that "the implementation of Sections 165 and 167 of the Equality Act 2010 within a period of six months from 17 October 2017 be approved".

## Scope of the case

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8. The complainant contacted the Commissioner on 20 May 2017 to complain that he remained dissatisfied following the internal review, specifically that the responses *"aren't clear as to whether they think they currently have a list compliant with S167 of the Equality Act, or if they intend to compile such a list, or if they don't have a list and don't intend to do so."*
9. The Commissioner contacted the Council on 26 September 2017 with a number of clarification questions. The Council responded and then provided an update to the complainant on 26 October 2017.
10. The complainant advised the Commissioner on 26 October that he remained unhappy with the response stating that *"I wanted to know what their position was when I submitted the FOI request, or "promptly, in any case within 20 working days" of the request. The response tells me of what they did in July and in October, but does not answer my question as to their position and intention at the time of the request....As it is, their response still doesn't provide the information I requested regarding their disposition regarding S167 back in April / May."*
11. Therefore the Commissioner has considered whether the Council complied with its obligations under section 1(1) and section 10(1).

## Reasons for decision

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12. The Commissioner notes that the information requests were worded as questions. Although the FOIA does not require an authority to answer direct questions rather than requests for recorded information, the Tribunal has decided that if recorded information is held which can respond to a question then that information should be considered for disclosure to the requestor. Therefore the Commissioner considers that they were in fact requests for information regarding the existence of the lists, and for information regarding the lists.

### Section 1 – general right of access to information

13. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled:
  - (a) to be told if the information is held; and
  - (b) to have the information communicated to him or her if it is held.
14. The Council originally responded *"Yes, a list is in place of wheelchair accessible taxis. No PHV with wheelchair accessible facility"*. After the

internal review it further clarified that the only list held was the list that had been originally provided, stating that *as I understand it you do not consider that this spreadsheet complies with the requirements of s167 of the Equality Act... I will hand these comments on to the relevant department of the Council.*"

15. The Council provided the list to the complainant and advised that it was *"compiled voluntarily in 2010 and is currently on the Council's website"*. It is evident however that the list had not been published on the Council's website as was inferred in the review response *"As I understand it you do not consider that this spreadsheet complies with the requirements of s167 of the Equality Act because ...it has not been published (as it is not on the Council website)."*
16. The Council did not indicate in the original response or the review whether or not it was planning to create an s167 compliant list at the time of the request. It did however state that no further information was held regarding the request which infers that it held no recorded information on this matter. It has subsequently provided information that shows the matter was discussed at the Licencing Committee on 3 July 2017 and agreed at the Cabinet meeting on 17 October 2017 both of which were after the date of the request.
17. The Commissioner considers that the Council did not directly answer the question regarding whether it held an s167 compliant list at the time of the original response, however this issue was rectified in the review response. Furthermore, as the Council provided the complainant with a copy of its current list, and confirmed in the review that it held no further information, it was possible to deduce that the Council did not hold an s167 compliant list at the time of the request.
18. Whilst the Council did not directly answer all of the complainants questions, the Commissioner is satisfied that the information can be deduced from all of the information that has now been provided to the complainant. She is therefore satisfied that the Council has complied with the specifics of section 1(1)(a).

### **Section 10 – time for compliance**

19. Section 10(1) says that a public authority must comply with section 1(1) as soon as possible and within 20 working days.
20. Section 1(1)(a) requires that where an authority receives a request for information the requestor is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request.

21. In terms of time for compliance, the initial request was made on 19 April 2017 and the response did not specifically meet the requirements of section 1(1)(a) because it did not explicitly confirm whether a list was held which complied with the requirements of s167 of the Equality Act. As previously argued however it is possible to determine from the review response that the Council did not hold an s167 compliant list at the time of the request. Nor did it hold any recorded information regarding plans to create such a list. The review response clarified these points and was issued to the complainant on 18 May 2017 which is within the 20 working days stipulated by section 10(1) of the FOIA.
22. The Commissioner therefore finds that the Council has complied with the requirements of section 10(1).

## Right of appeal

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23. 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)

24. 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.
25. 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**