

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 22 June 2017

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

#### Decision (including any steps ordered)

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1. The complainant has requested information with regards to SIA (Security Industry Authority) licences. The council initially considered that the complainant had not requested recorded information. Following contact from the Commissioner, the council amended its stance and responded that it did not hold the requested information.
2. The Commissioner's decision is that the council does not hold the information requested. She also found that the council breached section 10(1) of the FOIA due to the time it took to respond.
3. As the council has now responded and found the requested information is not held by it, she does not require the council to take any steps.

#### Request and response

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4. On 24 March 2016 the complainant made the following request to the council:

*"Can you please tell me if the Liverpool Council Enforcement Officers acting in a security guard role at Knowsley Council meetings, have SIA licences?"*

*If not, why not. Under what specific legislation are these employees exempt.*

*Please supply the specific legislation under the Private Security Act 2001 or provide details of any exemption granted by the Home Office."*

5. The complainant contacted the council again on the 2 April 2016 as he had not received any acknowledgement of receipt of the request stating:

*"I have had no acknowledgement to my FOI request (below) dated 24th March 2016.*

*Can you please tell me if the Liverpool Council Enforcement Officers acting in a security guard role at Knowsley Council meetings, have SIA licences?*

*If not, why not. Under what specific legislation are these employees exempt.*

*Please supply the specific legislation under the Private Security Act 2001 or provide details of any exemption granted by the Home Office."*

6. The council responded on the 4 April 2016. It advised that under the FOIA, it is only required to provide recorded information and the council was of the view that the complainant had asked for confirmation and evidence and so is not required to respond to this request.
7. The council did also advise that its officers attending the Knowsley Council meeting did so as part of a shared service and any additional enquiries regarding this matter should be directed to Knowsley Council as they administer the meetings referred to.
8. On 6 April 2016 the complainant requested an internal review as he was not satisfied with the council's response, stating:

*"The information that I am asking for is:*

*When did Liverpool Council apply for an SIA exemption for their Enforcement Officers who were acting in a security role at a number of Knowsley Council meetings? and can you supply a copy of the information (the exemption certificate from the Government or evidence of such licensing required)*

*These Officers are supplied, as you say, by Liverpool Council, so there is no point in you advising me to ask Knowsley Council. These Officers, have stated that they are 'responsible for SECURITY' (this is on video).*

*So they are not simply 'Council Officers' assisting another Local Authority. They are 'security guards' and as such require an SIA licence or exemption.*

*Please give me the information as to which of the above applies, licence or exemption."*

9. The council provided its internal review response on the same day maintaining its position, explaining:

*"You have not asked for information, you asked for confirmation, specifically, if Liverpool Council Enforcement Officers were acting in a security guard role at Knowsley Council meetings and, if so, do they have SIA licences*

*I have confirmed that they are not acting as security guards as you state but as Council officers as part of a shared service*

*As such your enquiry has been answered"*

### **Scope of the case**

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10. After further correspondence with the council, the complainant contacted the Commissioner on 26 September 2016 to complain about the way his request had been handled.
11. The Commissioner contacted the council explaining that on review of the request, she considers that the complainant had requested information and asked that the council reconsider its response to the request.
12. The council amended its stance that this was not a request for information and instead responded on 10 April stating that the information requested is not held as its officers were not required to hold SIA licences.
13. The complainant advised the Commissioner that the council's further response had still not answered his request in full as it has not stated where and in what legislation it permits its officers to not require an SIA licence, or whether there is an exemption from the Home Office.
14. He is also not satisfied with the time it has taken the council to deal with his request and also considered that the council has lied to him in stating, in its further response, that it did not charge Knowsley Council for the use of its officers.
15. The Commissioner considers the scope of the case is to determine whether the council holds any legislation or home office exemption and whether its officers held SIA licences.

16. The Commissioner will also determine whether the council breached section 10(1) of the FOIA with regards to the time it took to respond to this request.
17. The Commissioner has advised the complainant that he cannot consider, in this case, whether or not the council charged Knowsley Council for the use of its officers because his request did not ask for information about these charges or costs and therefore it would fall outside the scope of the request.

## **Reasons for decision**

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### **Section 1 of the FOIA – Information Held/ Not held**

18. Section 1 of FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
19. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of balance of probabilities, the public authority holds any information within the scope of the request (or was held at the time of the request).
20. The council has confirmed to the Commissioner that it does not hold the requested information, that being the SIA licences or legislation/ Home Office exemption that states an SIA licence is not required.
21. The council has told the Commissioner that it referred the Commissioner's enquiries to the relevant service area, City Watch, and because this department knows that its officers are not SIA licenced it did not search any further within the council for the information.
22. In order to provide further responses to the Commissioner's investigation, because the complainant had been referring to SIA licences, the service area decided to search the SIA website and advised

the Commissioner that it found a link<sup>1</sup> to a report from March 2009 which states in recommendation 1.1:

*"This report concludes that that there is no clearly defined or substantiated risk to public protection to be addressed and that we are unable, at this time, to make a case which would justify extending the SIA's remit to include licensing of in-house guards."*

23. However, the council has pointed out to the Commissioner that this link to the report was only located from searching the SIA website, a third party website, and is not held in the council's records.
24. The council explained to the Commissioner that it does not hold this information because SIA licences are only relevant to private companies' not public authorities. So this quote from the report does not relate to the council and further demonstrates why it would not hold the information regarding SIA licences.
25. The Commissioner has viewed the SIA website<sup>2</sup> and notes on its home page that it states for individual licencing:

*"We are responsible for the compulsory licensing of individuals working in specific sectors of the private security industry."*

26. And for the Approved Contractor Scheme it states:

*"We manage the voluntary Approved Contractor Scheme, which measures private security suppliers against independently assessed criteria."*

27. This appears to support the council's view that SIA licences are for private companies, not public authorities and therefore why the council would not hold the SIA licences or legislation on it.
28. The council has confirmed to the Commissioner that none of the requested information would have ever been created or deleted by it and as explained above, SIA licences are only required by private

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<sup>1</sup> [https://www.sia.homeoffice.gov.uk/Documents/research/sia\\_in-house\\_report.pdf](https://www.sia.homeoffice.gov.uk/Documents/research/sia_in-house_report.pdf)

<sup>2</sup> [www.sia.homeoffice.gov.uk](http://www.sia.homeoffice.gov.uk)

companies, so there would be no business purpose for the council to create or hold the information requested.

29. As the council is of the view its officers were not required to have SIA licences and the SIA website seems to suggest that SIA licences are for private companies' only, not public authorities, it is difficult for the Commissioner to see why the council would licence their officers in this way.
30. In addition, even though there is information in the public domain which suggests the council is not required to have SIA licences for its officers, this information is on a third party website and was only found by the council during the Commissioners investigations in order to try and show why it does not hold the requested licences or legislation.
31. Based on this, the Commissioner finds that, on the balance of probabilities, the council does not hold the requested information.

### **Section 10(1) of the FOIA – Time for compliance**

32. Section 10(1) of the FOIA requires public authorities to respond to information requests in accordance with section 1 of the FOIA within 10 working days following receipt of the request.
33. In this case, the request was made on the 24 March 2016 and although the council initially responded within the 20 working days to state that the request was not a request for information, it conceded this stance on the 10 April 2017 – following contact from the Commissioner – responding that the information is not held. This being over 12 months after the request was made.
34. The Commissioner therefore finds the council did not comply with section 1 of the FOIA within the required 20 working days and therefore finds that it breached section 10(1) of the FOIA.
35. As the council has now issued its response, the Commissioner does not require it to take any steps.

## Right of appeal

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36. 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)

37. 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.
38. 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**