

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 December 2022

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

Decision (including any steps ordered)

1. The complainant requested information relating to a street crossing. Liverpool City Council (the "council") disclosed some information and withheld other information under the exemption for information relating to research (section 22A).
2. The Commissioner's decision is that the council did not respond to the request in time and breached section 10(1) and that it correctly withheld the information under section 22A.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 14 October 2021 the complainant wrote to Liverpool City Council (the "council") and requested the following information:

"I would like to request information relating to the recently installed colourful crossing which has been applied to the crossing Hannover Street, Liverpool. I believe it was installed on or around the 12th/13th of October 2021.

The information I am seeking relates to how the council and its partners have anticipated the potential impact or otherwise of such installation on disabled people. In using the term disabled people I am referring to a wide definition under the Equality Act which includes blind and partially sighted users, neurodivergent people (autism, dementia etc etc.) and people with mental health conditions. I would be pleased to receive any documents with relevant information and in particular any of the following if they exist (in whole, or part, draft or final versions):

- 1 All records of any internal discussion about the potential impact
 - 2 All records of any discussion with disabled peoples organisations/access groups or similar
 - 3 A copy of any equality impact assessment for the decision to proceed to trial - all versions if there are more than one, or other documents your organisation might use to demonstrate 'due regard' in line with your PSED obligations
 - 4 Any record within the authority regarding the potential impact (positive or negative) of such crossings on disabled people
 - 5 Any feedback received to date regarding the crossing and disabled people (excluding that now arriving via twitter)
 - 6 Any advice received from the DfT on the matter"
5. The council responded on 18 January 2022 and disclosed some information. It withheld information in parts 1,2,4,5 and 6 of the request under the exemption for information relating to research (section 22A).
6. The council's final position is that it considers that section 22(A) applies to the withheld information.

Reasons for decision

7. This reasoning covers first, whether the council handled the request within the statutory time limit and second, whether it correctly withheld under the exemption in section 22(A).

Section 10 – time for compliance

8. Section 10(1) of the FOIA requires authorities to respond to a request within 20 working days of the date of receipt.
9. In this case the request was submitted on 14 October 2021 and the council's response was issued on 18 January 2022.
10. The Commissioner has, therefore, concluded that the council failed to respond within 20 working days and breached section 10(1).

Section 22(A) – research information

11. Section 22(A) states:

“Information obtained in the course of, or derived from, a programme of research is exempt information if—

(a) the programme is continuing with a view to the publication, by a public authority or any other person, of a report of the research (whether or not including a statement of that information), and

(b) disclosure of the information under this Act before the date of publication would, or would be likely to, prejudice—

(i) the programme,

(ii) the interests of any individual participating in the programme,

(iii) the interests of the authority which holds the information, or

(iv) the interests of the authority mentioned in paragraph (a) (if it is a different authority from that which holds the information).”

12. The exemption applies to information obtained in the course of, or derived from, a programme of research, where the research is ongoing, and there is a plan to publish a report of the outcome.
13. The exemption covers a wide range of information relating to research projects, and will cover information that is not necessarily going to be published. In other words there does not need to be any intention to publish the information that has been requested.

14. In addition to showing that the information falls within the category of information defined by the exemption, authorities must demonstrate that there is a risk that disclosure of the requested information before the envisaged date of publication would or would be likely to prejudice:
 - the research programme;
 - the interests of an individual participating in the programme;
 - the interests of the authority holding the information; or
 - the interests of a different authority that is going to publish a research report.
15. The council has confirmed that the requested information relates to research which has taken the form of a structured project directly aimed at reducing the number of deaths of pedestrians killed on, or close to pedestrian crossings.
16. The council has explained that the research project has been ongoing for a number of years and that funding has been derived from a number of sources. Latterly, funding has come from the Road Safety Trust (the "Trust") and the research is ongoing with data obtained through the various trials being analysed prior to being embedded in a final report.
17. The council's position remains that the report will be completed on or about 30 April 2023, at which point this will be made accessible on the Trust's website, the council website and those of other partner organisations. The council has confirmed that it is happy to provide the report directly to the requestor at the point of publication.
18. The council has explained that the research project goes beyond Liverpool and includes multiple parties. It has argued that the ability to conduct research relies heavily on the gathering on unbiased, impartial data from the trial of solutions such as the crossing identified in the request.
19. The council has explained that the request is wide ranging and it would impact on the ongoing ability of the research project to gather balanced views by releasing incomplete data. It considers that this would prejudice research which is of national and international significance with the potential to improve road safety for disabled pedestrians and road users.
20. Having considered the council's submissions the Commissioner is satisfied that the information falls within the scope of the exemption. He also accepts that the council intends publishing a report derived from

the research and that disclosing the information prior to this would prejudice the effectiveness of the research programme. As he has concluded that the exemption is engaged, the Commissioner has gone on to consider the public interest.

21. The council has acknowledged that there is a clear public interest in disclosure. It recognises that the complainant raises legitimate concerns in relation to the use of coloured crossings and their impact on accessibility and inclusivity for disabled pedestrians and road users.
22. Conversely, the council has argued that there is a substantive and high likelihood that disclosing the information during an active research period would have a negative impact on the results generated. It has explained that stakeholder and service user interaction with the research would be coloured by the continued disclosure of information and this, in turn, inhibits the ability to undertake any form of objective research.
23. The council has submitted that it considers there to be overwhelming public interest benefits in enabling this research to be conducted within a defined timescale and clear timetable for publication. It has argued that the loss of the ability to conduct impartial, unfettered research would have profound implications for work to improve highways safety and inclusive access, and in turn have a substantial chilling effect on research undertaken in this sector.
24. In considering where the balance of the public interest lies, the Commissioner has given some weight to the genuine concerns voiced by the complainant. However, he notes that the council's research remains ongoing and that it has set a clear date for publication of a report which will set out the research conclusions.
25. It is clear to the Commissioner that disclosing the information before the research is complete would impact on the objectivity of data obtained as part of the project and would, in turn, reduce the usefulness of the resulting report. Whilst he is sympathetic to the complainant's concerns the Commissioner considers that the broader, overwhelming public interest in this matter favours withholding the information until the research is complete and the resulting report is published.
26. The Commissioner has, therefore, concluded that, in this case, the council correctly applied the exemption in section 22(A) and that the public interest favours maintaining the exemption.

Right of appeal

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: 0203 936 8963
Fax: 0870 739 5836
Email: grc@justice.gov.uk
Website: 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

Christopher Williams
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF