

Enquiries to: Information Team
Our Ref: FOI4664790/IR



**Liverpool
City Council**

request-680912-77373f19@whatdotheyknow.com

Dear Mr Hanlon

Freedom of Information Request 4664790/Internal Review

Thank you for your request that the City Council undertake an Internal Review of the above information request. For purposes of clarity and context, your original request and our accompanying responses are summarised below as follows –

- “1. Since July 2016 how many planning applications did Andy Barr sign off for Signature Living. Please list all?”*
- 2. Since July 2016 has Andy Barr's wife ever worked for Signature Living?*
- 3. Since July 2016 has any money ever entered into Mr Barr's household from Signature Living, or an associated Company?*
- 4. If money had entered into his household, would the Council consider this a breach of the 'Code of Conduct' and the relevant statutory obligations required by an Officer, set out in law?*
- 5. Please state all relevant legislation regarding declaring information on pecuniary and non-pecuniary payment for Officers?”*

Original Response

The text of our original response was –

1. None.
2. Yes.
3. As indicated in our response at (2) above, as a member of the household was employed within this group of companies, that person received a salary as a result of this employment.
4. In the event that an individual is in employment with a company or organisation, then it is reasonable to expect payment in the form of a salary to be made to that individual reflecting the nature of their employment and service. Neither the Code of Conduct for Employees nor legislation require the disclosure of a salary of an associated person.



5. *No. Freedom of Information legislation does not extend to answer hypothetical or speculative questions.*

However, and for the avoidance of doubt, were a family member or member of a household of a City Council employee to be employed by a third party then employees receive a salary from their employer.

The receipt of a salary by other family or household members would not and does not constitute either a breach of the Employees Code of Conduct nor of any legislative obligations otherwise applicable.

6. *This is addressed within Section 117 of the Local Government Act 1972. Information in relation to all UK legislation is available online. As such and in accordance with the application of Section 21 Freedom of Information Act 2000 we would refer you to the following weblink –*
<https://www.legislation.gov.uk/ukpga/1972/70/section/117>

Internal Review

The basis upon which you have requested an Internal Review be undertaken was as follows –

"I am writing to request an internal review of Liverpool City Council's handling of my FOI request 'Andy Barr and Signature Living'.as I believe I am knowingly being misled.

In relation to Question 1.

Planning documents show that Mr Barr passed the following applications under delegated authority for Signature Living;

- 1. Alma Da Cuba, Seel Street, Liverpool, L1 4BH on the 3/10/2107.*
- 2. Cunard Building, Georges, Pier Head, Liverpool, L3 1QL on the 21/12/2017.*
- 3. Former Community College, Bankfield Road, Liverpool, L13 0BQ on the 7/02/2018.*

Therefore, how can the answer to Question 1 be given as NONE? For the avoidance of doubt please refer to his signature on the planning certificates.

In relation to you answer to Question 4 in which you state;

"Neither the Code of Conduct for Employees nor legislation require the disclosure of a salary of an associated person."

I would strongly advise you to read over the different 'Codes of Conduct' and re answer this.."

Review & Outcome

By way of context and as you may well be aware, Liverpool City Council in common with all other public authorities in the UK, Europe and worldwide have, since March, been dealing with and responding to the Coronavirus pandemic. The introduction of substantial Government restrictions well before the submission of your request have had wide reaching and ongoing impacts being felt across society. These impacts specifically affected all Service Areas of the City Council and include our ability to review records and extract data to comply with requests such as yours when Officer resource and personnel are diverted to supporting the most vulnerable residents of this city.

Specifically, from early March, direct impacts were being seen for the City Council in terms of staff absence due to symptoms of or self-isolation due to Coronavirus as well as significant and substantial increases in demand for those Services which specifically support children, the elderly and the most vulnerable residents across Liverpool.

In light of the above factors, Officers from early March were gradually and in increasing numbers assigned to different Service Areas to ensure continuity of service, provision and support for children, the elderly and the most vulnerable residents across Liverpool as indicated above.

This impacted considerably on the ability of colleagues within departments such as the Planning Service, Legal Services and Information Team to identify, retrieve and collate information, both as records were a combination of paper and electronic format, as well as the absence of relevant Officers whose knowledge informs the preparation and content of responses.

With the above factors in mind, we greatly appreciate your patience and understanding.

Question 1.

Your assertion is incorrect. Whilst Mr Barr was Interim Head of Planning between August 2016 and May 2018, his delegated authority was exercised and undertaken by Development Management Officers and Team Leaders under his management of Planning at Grade 8 and above.

This delegation extended to all Team Leaders and Principal Planning Officers in Development Management team.

Other decisions that were not exercised by Team Leaders and Principal Planning Officers in Development Management team under delegated authority the Interim Head of Planning delegated authority were taken by the Planning Committee.

The communication of formal decision certificates are endorsed by an electronic signature of the relevant individual holding the role of Head of Planning, which at the

period to which your request relates was Mr Barr. However and for purposes of clarity, whilst Mr Barr was Interim Head of Planning between August 2016 and May 2018, his delegated authority was exercised and undertaken by Development Management Officers and Team Leaders under his management of Planning at Grade 8 and above.

This element of your review is not upheld.

I now turn to your specific comment *"I believe I am knowingly being misled"* which seeks to imply that City Council Officers in dealing with and responding to your request, individually or collectively, have withheld or supplied incorrect information.

This is entirely incorrect and wholly refuted.

As your comment, similar to previous request made by you, constitutes wholly unsubstantiated hearsay and speculation designed to impact on the activities of City Council Officers in their conduct of official business, I draw your attention to the following information –

Warning – Submission of Information Requests with potentially Defamatory Content

We would advise that it is our assessment that this comment is potentially defamatory in nature, and identifies or refers to individuals that being Officers dealing with requests for information, and is being published by yourself through the use of a public website forum to third parties.

We would further advise you that the defamatory statements made by yourself either directly or through recognised aliases and contained within the information requests referenced above fall within the meaning of Article 14(1)(a) of the E-Commerce Directive (2000/31/EC). Under the law of England and Wales, a defamatory statement is one which tends to lower the claimant in the estimation of right thinking members of society generally (Sim v Stretch [1936] 2 All ER 1237).

We would further advise that a defamatory statement is published at the place where it is read, heard or seen, and is not where the material was first placed on the internet. In internet cases, therefore, provided a small number of people have access to the material on the internet in England, the English courts will have jurisdiction to hear the claim against a foreign defendant (Spiliada Maritime Corp v Cansulex Ltd [1987] A.C. 460).

We would therefore advise that you take prompt action to remove or disable access to the Offending Webpages containing this text.

In the event that this confirmation is not received, the individuals named directly or by implication within the above referenced information requests and publicly displayed on

the Offending Websites shall reserve the right to issue proceedings against you seeking relief for defamation.

The remedies that may be available to these individuals include an injunction restraining further publication of the Offending Statement [pending trial], damages, legal costs and interest.

In the event that you repeat or make further potentially defamatory statements in future requests, we will apply Section 14 to such requests as being vexatious and manifestly unreasonable and will not engage in any further correspondence with you on such matters.

Question 4

Liverpool City Council are fully aware of the content of relevant Codes and legislative obligations and have no requirement or obligation to review or read these in the manner your review seeks. Your review request is not upheld.

Question 5

As our original response to this question was separated by a paragraph which took this on to a second page, this inadvertently resulted in a number 6 prefacing the beginning of the final paragraph of our response to Question 5. For purposes of clarity, our response to this question is confirmed as follows –

5. *No. Freedom of Information legislation does not extend to answer hypothetical or speculative questions.*

However, and for the avoidance of doubt, were a family member or member of a household of a City Council employee to be employed by a third party then employees receive a salary from their employer.

The receipt of a salary by other family or household members would not and does not constitute either a breach of the Employees Code of Conduct nor of any legislative obligations otherwise applicable.

This is addressed within Section 117 of the Local Government Act 1972. Information in relation to all UK legislation is available online. As such and in accordance with the application of Section 21 Freedom of Information Act 2000 we would refer you to the following weblink –
<https://www.legislation.gov.uk/ukpga/1972/70/section/117>

This concludes our Internal Review process on this matter. All aspects of your review are not upheld.

If you remain dissatisfied, you may also apply to the Information Commissioner for a decision about whether the request for information has been dealt with in accordance with the Freedom of Information Act 2000.

The Information Commissioner's website is www.ico.gov.uk and the postal address and telephone numbers are:- Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF. Telephone 0303 123 1113. Email – mail@ico.gsi.gov.uk (they advise that their email is not secure)

We trust this information satisfies your enquiry.

Yours sincerely

C Walsh

Divisional Manager – Governance, Audit & Assurance