



[request-383908-9ae91b3e@whatdotheyknow.com](mailto:request-383908-9ae91b3e@whatdotheyknow.com)

Dear Mr Coyne

### **Freedom of Information Request 517399 & Internal Review**

Thank you for your recent request received 24 January 2017. Our apologies for the delay.

Your email correspondence of 18, 19 and 20 October references this Information Request together with a number of interlinked requests all of which relate to the proceedings referenced below and the circumstances surrounding them. Given these matters are clearly linked and form part of a series of requests from yourselves on this matter, the City Council has awaited the outcome of the related First Tier Tribunal Case with yourself, again on a linked matter, before providing responses. Whilst we acknowledge the delay we consider it to have been appropriate and proportionate in the circumstances.

Your request was actioned under the Freedom of Information Act 2000 in which you requested the following information –

*“Paragraph 10 of the Employment Tribunal judgement, 28th January 2014 - <https://drive.google.com/file/d/0B3pT2BP...> - refers to a written statement from the City Solicitor and a report on members' allowances from May 2012.*

- (1) Please disclose the text of that written statement from the City Solicitor.*
- (2) Please disclose the report on members' allowances tendered at the Employment Tribunal.”*

### **Response:**

Liverpool City Council would advise that it holds information relevant to the terms of your request. With regard to your first question, the City Council considers that the document concerned formed a basis of an evidence submission as part of legal proceedings. As such, the City Council has therefore considered whether any Exemptions as set out within the Freedom of Information Act be applied, in this instance specifically the exemption in respect of Litigation Privilege (Section 42). Our considerations and assessment are set out below.

#### Section 42 – Litigation Privilege

Information within the requested document relates to legal proceedings and as such the City Council has assessed any potential disclosure with regard to the public interest considerations.

#### Section 42 – Public Interest Test

In considering the public interest test and its application in the context of the information retrieved, as is standard practice when dealing with all such issues, the City Council has carefully considered the factors both for and against disclosure of the information held.

The City Council does not consider that generic public interest arguments are relevant in the majority of cases as indeed this one – rather, the specific circumstances and nature of the information enable this to be focused and therefore more refined.

Factors in favour of disclosing the information –

- (i) transparency of how the City Council engages with third parties in respect of matters which impact on the governance of the City Council; and
- (ii) the level of public interest in disclosure (a limited number article within the local press on this matter and a small cohort of individuals making repeated information requests on the subject).

Factors against disclosure of the information –

- (i) the requested information directly related to and informed legal proceedings. The requested information is as such is by its nature clearly subject to Litigation Privilege, this being fundamentally enshrined within the principles of English Law; and
- (ii) the level of public interest – limited (small cohort of individuals making repeat requests on the subject).

The above factors have been carefully assessed by the City Council and a clear position is evident. A key factor in the application of this specific Exemption was and remains the weight placed on upholding a fundamental principle of English Law, that being the confidentiality of information produced and held in pursuance and in anticipation of legal proceedings.

It is with this in mind that the City Council considers that the factors against disclosure of such information substantially outweigh those in favour of publication. On this basis the City Council applies Section 42 FOIA to the information held insofar as Litigation Privilege is considered to be engaged.

With regard to the remaining element of your request and as you may recall having been present in your then capacity as a City Councillor, please be advised that the report to which you refer is already in the public domain having been considered by the City Council's Annual General Meeting of 23 May 2012, and is reasonably accessible to you via the following weblink – <http://councillors.liverpool.gov.uk/ieListDocuments.aspx?CId=315&MId=12536>

This concludes our response.

In accordance with the application of Section 42 of the Freedom of Information Act 2000 we have not provided all of the information requested. As such we are required to serve you with the following Section 17 Notice –

If you remain dissatisfied you may 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](http://www.ico.gov.uk) and the postal address and telephone numbers are:-

**Liverpool City Council Information Team**  
Cunard Building, Water Street, Liverpool, L3 1DS  
E: [informationrequests@liverpool.gov.uk](mailto:informationrequests@liverpool.gov.uk)



**it's liverpool**

Information Commissioner's Office, Wycliffe House  
Water Lane, Wilmslow  
Cheshire SK9 5AF Telephone 0303 123 1113.  
Email – [mail@ico.gsi.gov.uk](mailto:mail@ico.gsi.gov.uk) (they advise that their email is not secure)

I trust this information satisfies your enquiry

Yours sincerely

***M Jones***

**Mike Jones**

**Deputy Head of Democratic Services & Information Manager**