

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 22 September 2011

Public Authority: Westminster City Council
Address: 3rd Floor
101 Orchardson Street
NW8 8EA

Decision (including any steps ordered)

1. The complainant wrote to Westminster City Council (the council) and requested information in the following terms:

'I need a list of motorcycle parking bays (the addresses where they are located) so that I can plan my trips into town.

I found this site: <http://www3.westminster.gov.uk/maps/fmn-form.cfm?maplayers=25>

That search facility is no use to me. I need to see all the places where I can park and then I can plan my trip accordingly.

The web page obviously requires a full list to function but that list has not been made available. Could you either supply the list to me or point me to the place where it is already available.'

2. The Information Commissioner's decision is that the Council correctly applied section 21 of the FOIA to the complainant's requests.
3. The Information Commissioner (the Commissioner) does not require the council to take any further steps to ensure compliance with the FOIA.

Request and response

4. On 4 October 2010, the complainant requested the information described in paragraph 1 above.

5. On 14 October 2010, following further correspondence in which the complainant clarified that he was looking for a list rather than a search facility, the council responded. It provided a link to a Traffic Management Order (TMO) which listed the names of all the streets on which motorcycle bays are located in the form of a PDF file. It explained that as it considered this information to be reasonably accessible it was exempt under section 21 of the FOIA and that its response constituted a refusal notice under section 17.
6. Following an internal review the council wrote to the complainant on 1 December 2010 stating that it upheld its original decision. It also explained that it did not consider the complainant's request to have the information provided in a specific format to be reasonable due to the amount of work that would involve. As such it did not consider it was required to comply with the complainant's preference under section 11 of the FOIA, as it would not be reasonably practicable for the council to provide the information in this format.

Scope of the case

7. On 23 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. He stated that his main concerns were that the council had not provided him with the information he requested in a format which was useful to him, and that it had failed to complete the review process required under the FOIA.
8. The scope of his investigation was for the Commissioner to consider:
 - whether section 21 had been correctly applied to the request; and
 - whether the council had carried out the internal review process described in the section 45 Code of Practice¹.

Reasons for decision

9. Section 21 states that information that is reasonably accessible to the applicant (other than by making an FOIA request) is exempt.

¹ As there is no legal requirement under the FOIA to carry out an internal review, this aspect of the complaint will be addressed under the 'Other matters' section of this notice.

10. The council has given the complainant the information he requested in a PDF document. The complainant does not believe that this meets his request as he had requested the information in a format which would allow him to easily search, collate or process it.
11. The complainant has also explained, following correspondence with the Commissioner, that the form in which the information has been provided does not provide him with all the information he has requested, as he is unable to extract further information from the requested information while it is in the format of a PDF document.
12. The issues that the Commissioner has to consider are therefore whether the information the complainant has requested was reasonably accessible to him in the form of the PDF that the council provided a link to, and whether that link provided all of the information he had requested that the council held in recorded form.
13. The Commissioner had noted that although the complainant had requested a list of the addresses of motorcycle parking bays in Westminster, the PDF list the council directed him to does not include postcodes. The council has confirmed to the Commissioner that it does not hold postcodes in relation to each motorcycle parking bay, but instead uses longitude and latitude coordinates to plot points. This information was included in the PDF document.
14. The complainant has, in submissions to the Commissioner, raised the issue of further information that could be obtained from the information he has requested if it was provided in the format he requested. The Commissioner accepts that if the information was provided in the specified format the complainant may well be able to extract further information from it. However, the Commissioner is also clear that the purpose of the FOIA is to make information accessible. It is not concerned with how it is used or intended to be used once it is made accessible. The complainant has not explained to the council what information he is hoping to obtain by receiving the list in the format he has requested, and as such the request must be considered as it stands.
15. It is the Commissioner's view that the information the complainant has requested is reasonably accessible in the form of the PDF document that the council has directed him to. The Commissioner does not consider that the format it is provided in has prevented the complainant from accessing information he has requested.

16. The Commissioner has also considered whether the council was required to consider the complainant's request to be provided with the information in another format under section 11(1)(a), which requires public authorities to provide information in the form requested by the applicant where it is reasonable to do so.
17. It is the Commissioner's view that as the requested information is exempt under section 21, there was no need for the council to consider the complainant's request under section 11(1)(a).

Other matters

18. Under the FOIA a public authority is not legally required to have an internal review procedure in place. However, to conform to the section 45 Code of Practice, a review procedure should exist. The Code states that a request for an internal review should be dealt with within a reasonable timeframe.
19. The Commissioner's guidance 'Time limits on carrying out Internal Reviews'² states that a one-stage review should be completed in 20 working days, although in exceptional circumstances it could take up to 40 working days.
20. It appears that the council carried out an internal review on 1 December 2010. This was in response to the complainant's email of 14 October 2010 and 34 working days after his request for a review.
21. In order to comply with the section 45 Code of Practice, the council should take steps to ensure that where it decides to carry out an internal review, it is completed within 20 days, unless further time is needed to consider more complex exemptions and public interest considerations.

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http://www.ico.gov.uk/upload/documents/library/freedom_of_information/detailed_specialist_guides/time_limits_internal_reviews.pdf

Right of appeal

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

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.

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

Faye Spencer
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SK9 5AF