

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 January 2013

Public Authority: Nottingham City Council
Address: Loxley House
Station Street
Nottingham
NG2 3NG

Decision (including any steps ordered)

1. The complainant requested various pieces of information relating to a penalty charge notice (PCN) in January 2012. Nottingham City Council ("the council") provided a response to the request in August 2012. The Commissioner's decision is that the council has failed to comply with section 10(1) of the Act.
2. The Commissioner requires no steps to be taken.

Request and response

3. The complainant has advised the Commissioner that on or around 16 January 2012 he wrote to the council and requested information in the following terms in respect of a particular PCN:

"A copy of the CEO 489s notes;

The serial number and calibration record for the handheld device...

A copy of the Traffic Management Order relating to the installation of the traffic calming measures on Villa Road;

A copy of the appropriate planning notification allowing these measures to be installed;

A copy of the CEO Supervisor's notes who authorised the removal;

A copy of the On Board CEO's notes explaining the rationale behind their independent judgment that the vehicle should be removed (as required by Operational Guidance note 8.91);

The name of the Person Removing the vehicle, as required (and not provided), on the Vehicle Removal Record;

The name of the person receiving the vehicle into the pound, as also required (and not provided) on the Vehicle Removal Record."

4. The request was contained in an appeal against a PCN sent to the council by the complainant. The council responded to this appeal on 27 March 2012, advising the complainant that his "Freedom of Information request [had] been sent to the council's Information Governance Section and [would] be sent to [him] in due course".
5. Having received no response to his request, on 15 May 2012 the complainant made a complaint to the Commissioner regarding the council's handling of his request.
6. On 9 July 2012, the Commissioner wrote to the council asking it to respond to the complainant's information request within 10 working days. The complainant contacted the Commissioner on 28 July and 15 August 2012 to explain that he had received no correspondence from the council regarding his request.
7. On 29 August 2012, the council responded to the request. The council provided some of the information requested, withheld some under section 40(2) of the Act and explained that some of the information was not held.

Scope of the case

8. Following the council's response, the complainant has advised the Commissioner that he wishes him to confine his investigation of this complaint to the length of time it took the council to respond to his request.

Reasons for decision

9. Section 8(1) of the Act states that requests for information should be in writing, bear the name and address of the applicant and describe the information requested. The Commissioner considers that the request in this case can be defined as such and therefore constituted a valid request under the Act for recorded information.

10. Section 10(1) of the Act states that on receipt of a request for information a public authority should respond to the applicant within 20 working days.
11. As noted above, the complainant has advised the Commissioner that request was submitted on or around 16 January 2012. The response from the council dated 27 March 2012 indicates that it was aware of the request and yet, despite requests to do so by the Commissioner, the council did not provide a response to the request until 29 August 2012.
12. The Commissioner's decision is that the council has breached section 10(1) of the Act by failing to provide a response to the request within the statutory timeframe of 20 working days.
13. The Commissioner notes that the council acknowledged to the complainant, in its response of 29 August 2012, that it had breached section 10 of the Act and apologised for the delay.

Other matters

14. Although they do not form part of this decision notice, the Commissioner would draw the council's attention to the following points.
15. The introduction to the code of practice ("the code") issued under section 45 of the Act states:

"15. All communications in writing to a public authority, including those transmitted by electronic means, may contain or amount to requests for information within the meaning of the Act, and so must be dealt with in accordance with the provisions of the Act. Whilst in many cases such requests will be dealt with in the course of normal business, it is essential that public authorities dealing with correspondence, or which otherwise may be required to provide information, have in place procedures for taking decisions at appropriate levels, and ensure that sufficient staff are familiar with the requirements of the Act and the Codes of Practice issued under its provisions. Staff dealing with correspondence should also take account of any relevant guidance on good practice issued by the Commissioner. Authorities should ensure that proper training is provided in this regard. Larger authorities should ensure that they have a central core of staff with particular expertise in Freedom of Information who can provide expert advice to other members of staff as needed."

16. Although the introduction does not form part of the code itself, the Commissioner would echo its recommendations.
17. He would also note a number of areas of particular concern in the council's handling of this request. The request was submitted on or around 16 January 2012 but, based upon the evidence before the Commissioner, does not appear to have been referred to the council's Information Governance department until 27 March 2012. Once the request was referred to the Information Governance department it was not then processed within 20 working days. Finally, the council does not appear to have acted upon the Commissioner's correspondence on 9 July 2012 asking it to respond to the request within ten working days.
18. The Commissioner would expect that in the future the council will ensure that requests for information are identified as such and are not dealt with in a way which would conflict with any of the provisions of the Act.

Right of appeal

19. 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

20. 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.
21. 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
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