

Freedom of Information Act 2000 (FOIA)

Date: 17 May 2018

Public Authority: London Borough of Richmond upon Thames
Address: Civic Centre
44 York Street
Twickenham, TW1 3BZ

Decision (including any steps ordered)

1. The complainant has requested information about the CCTV camera located in Manor Road. The London Borough of Richmond upon Thames ("LBRT") provided an explanation about how the camera works. After internal review, it provided links to more information available online.
2. The Commissioner's decision is that LBRT does not hold any further information within the scope of the complainant's request.
3. No steps are required.

Request and response

4. On 13 January 2017, the complainant requested information of the following description:

"I wish to know full details of the legally approved uses of the CCTV camera (CAMERA MAN 10CUV) located in Manor Road (B353) and opposite Manor Gardens, Richmond.

If possible, I would request this information to be sent to me via email- it saves time and trees!

If it is not possible to provide the information requested due to the information exceeding the cost of compliance limits identified in Section 12, please provide advice and assistance, under your Section 16 obligations, as to how I can refine my request to be included in the scope of the Act.

In any case, if you can identify ways that my request could be refined please provide further advice and assistance to indicate this.

I look forward to your response within 20 working days, as stipulated by the Act.

If you have any queries please don't hesitate to contact me."

5. On 10 February 2017, LBRT responded. It provided what it considered to be an adequate and brief explanation of how and where the camera in question operates.
6. The complainant requested an internal review on the same date. He explained that it had not provided any certification information. LBRT sent him the outcome of its internal review in a letter of 24 February 2017 where it provided links to a number of sources of online information.

Scope of the case

7. The complainant contacted the Commissioner on 24 February 2017 to complain about the way his request for information had been handled.
8. The Commissioner has looked at whether LBRT is correct when it says that it holds no further information within the scope of the request.

Reasons for decision

9. Section 1(1) of the FOIA states that:
"Any person making a request for information to a public authority is entitled-
 - (a) To be informed in writing by the public authority whether it holds information of the description specified in the request, and*
 - (b) if that is the case, to have that information communicated to him."*
10. In scenarios where there is some dispute between the public authority and a complainant as to whether the information requested is held by the public authority, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of proof - i.e. on the balance of probabilities, in determining whether the information is held.

11. The complainant in this case is firmly of the view that LBRT holds further information, specifically certification information. The complainant has said it should hold:

- "The certificate number;
- The technical construction file;
 - The camera make and model; and
 - The effective from date."

He also said "I have seen a number of similar FOI requests to Councils online, where such details were provided."

12. LBRT said: "The issue of PCNs [Penalty Charge Notice] for enforcing moving traffic contraventions in Manor Gardens arises under Section 4 of the London Local Authorities and Transport for London Act 2003 and as such the camera does not require device certification. The requirement for the camera equipment used is that it must be a prescribed system that does what is required."

13. The Commissioner has no role to play in determining whether LBRT is complying with other legislation including the London Local Authorities and Transport for London Act 2003. The complainant clearly has concerns about the process by which traffic violations are enforced in the area. However, on the balance of probabilities, the Commissioner is satisfied that LBRT has no further information within the scope of the request for the "full details of the legally approved uses of the CCTV camera (CAMERA MAN 10CUV) located in Manor Road (B353) and opposite Manor Gardens, Richmond" – as described in the request.

14. When questioned by the Commissioner, LBRT reiterated that it had no business or legal need for certification and therefore did not have this information. The Commissioner is satisfied with this explanation, that is, that LBRT does not think it needs to obtain certification. LBRT also stated that if the complainant has concerns about whether it is complying with its legal obligations or has erred in law in its approach, he should approach the Department for Transport or Vehicle Certification Agency.

Conclusion

15. In light of the above, the Commissioner is satisfied that LBRT does not hold any further information within the scope of the complainant's request.

Right of appeal

16. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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

Elizabeth Hogan
Senior Case Officer
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Water Lane
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