

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 April 2023

Public Authority: Oxfordshire County Council
Address: County Hall
New Road
Oxford
OX1 1ND

Decision (including any steps ordered)

1. The complainant has requested correspondences relating to Quarry controlled parking zones, from Oxfordshire County Council (the Council).
2. The Commissioner's decision is that, on the balance of probabilities, the Council does hold additional information within the scope of the request.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Disclose any additional information within the scope of the request or provide an appropriate refusal notice.
4. The public authority must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 27 April 2022, the complainant wrote to the Council and requested information in the following terms:

"In the meantime, might I suggest you revisit the criteria upon which breaches occur, this highlighted in the full correspondence sent to the local representative [name redacted] and deals with both individuals 'and' 'businesses' that suffer discrimination as result of local government policy.

The issuance of permits to guest houses and hotels within Quarry whilst denying these to other businesses within the same zone is discriminatory and breaches said Act.

The owner of QMC, his MP and others have on file correspondence from Council officers stating that: "QMC cannot be treated differently to other business", yet it sets policy that does exactly that.

It is the policy itself that in essence discriminates and by result the business and its owner.

I'm sure the owner of the business in this case will pursue the matter by way of an official complaint and if necessary, take the matter to the Ombudsman for adjudication.

The owner [name redacted] has reached out to the Council on several occasions during the past year in an attempt to find a workable solution to save his business. He's asked for meetings with officers and elected representatives to discuss the plight of his business.

Even at this late stage he would be willing to sit down and discuss ANY possible options.

In preparation of the complaint on my return and to avoid 'further' unnecessary delay, could I request under a FOI request the following:

Copy of ALL documents and emails sent to and received by officers and elected representatives in regards the above matter."

6. On 30 May 2022, the complainant clarified their request in the following terms;

"The requested data relates to the Quarry CPZ and correspondence that has passed between any of the following: The owner [name redacted], the Council, their officers and elected representatives, as well as our MP, all of whom have been involved in the matter over the past 12 months. This data is to establish whether the complainant [name redacted] has been treated unfairly during the process, whether breaches of the Equalities Act have taken place by result, or failing that, whether any code of conduct has been breached by either officers or elected representatives."

7. The Council responded on 3 August 2022. It provided some information within the scope of the request.
8. Following an internal review, the Council wrote to the complainant on 29 November 2022. It provided some additional information within the scope of the request, but advised that some information was being withheld under Section 40(2).

Scope of the case

9. The complainant contacted the Commissioner on 12 October 2022, to complain about the way their request for information had been handled. The complainant advised that they believed more information was held, than disclosed.
10. The Commissioner considers that the scope of his investigation is to determine, on the balance of probabilities, if the Council holds any additional information within the scope of the request.

Reasons for decision

11. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
12. FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations.
13. In cases where there is a dispute as to the information held by a public authority, the Commissioner will use the civil standard of proof, i.e. the balance of probabilities. In order to determine such complaints, the Commissioner must decide whether, on the balance of probabilities, a public authority holds any information which falls within the scope of the request. If a public authority does not hold recorded information that falls within the scope of the request, the Commissioner cannot require the authority to take any further action.
14. The Council informed the Commissioner that all relevant staff email inboxes were checked for information, which fell within the specified date range and related to the Quarry controlled parking zone.
15. The Council advised it used the search terms of "Quarry" and "[name redacted]" within the specified date range when checking information

held in personal and team inboxes. The Council explained to the Commissioner this search was "deemed wide enough to enable the Council to extract all emails linked with the Quarry CPZ."

16. The Council confirmed that the information would be held in electronic records. It confirmed that it had identified some additional information within the scope of the request from one Councillor, however this had failed to be disclosed at the time of the request.
17. The complainant advised the Commissioner that despite the disclosure there still appeared to be documentation missing, they provided the Commissioner with some additional emails between the Council and a third party.

The Commissioner's decision

18. Having reviewed the disclosed information the Commissioner has decided, on the balance of probabilities, the Council does hold more information within the scope of the request.
19. The Commissioner requires the Council to disclose any remaining information within the scope of the request or provide an appropriate refusal notice.

Procedural matters

20. The Council failed to respond to the request within 20 working days and therefore breached Section 10.

Other matters

21. The Commissioner would also like to take this time to remind the Council that when engaging with the Commissioner, it should ensure it is doing so in a timely manner.

Right of appeal

22. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

23. 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.
24. 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

Catherine Fletcher
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