

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 7 July 2015

**Public Authority:** London Borough of Hounslow  
**Address:** Civic Centre  
Lampton Road  
Hounslow  
TW3 4DN

#### **Decision (including any steps ordered)**

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1. The complainant has requested information from the London Borough of Hounslow ("the Council") relating to a Penalty Charge Notice (PCN).
2. The Commissioner's decision is that the Council incorrectly handled requests 1 and 12 under the FOIA. These two requests should have been handled under the Data Protection Act 1998 (DPA) as they seek the requesters own personal data.
3. The Commissioner has determined that the Council handled the remaining requests in accordance with the FOIA. However, it failed to provide a full response to the complainant within the timeframe of 20 working days. The Council has therefore breached section 10 of the FOIA.
4. As a full response has now been provided, the Commissioner requires the Council to take no steps.

#### **Request and response**

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5. On 18 September 2014 the complainant wrote to the Council and requested information in the following terms:
  1. *please forward the full evidence that allegedly had been recorded in support of the alleged contravention;*

- 2. please provide the authority to install these CCTVs cameras in use are approved device(s) and (b) the locations of signs warning the use of CCTV cameras along the route;*
  - 3. please provide the confirmation the legalist of Local Authority CCTVs cameras which are required to be certificated by the Department for Transport's ('the DT') agent known as the VCA;*
  - 4. please provide the details of the organisation operating these CCTVs systems;*
  - 5. please, provide confirmation that the Enforcement Authority is in compliant, and if the reply is affirmative, please provide written evidence in support;*
  - 6. please provide a copy of the contract about the scheme (where these things are not obvious to those being monitored);*
  - 7. please confirm that the sign displayed is of an appropriate size depending on context, for example, whether they are viewed by pedestrians or by car drivers;*
  - 8. please confirm when were these CCTVs last serviced, where allegedly the offence took place;*
  - 9. please provide evidence of the complaint who serviced these CCTV's;*
  - 10. please provide full name and address of the person who carried out the said service*
  - 11. please provide the evidence of the relationship of the person with the said company who carried out the service on these CCTVs;*
  - 12. please forward a perfect quality CD of the alleged offence;*
  - 13. please provide the full name and address of the person who first obtained the evidence;*
  - 14. Please provide the full name and address of the person who developed the said evidence; and*
  - 15. Please, provide the full name and address of the company who developed the evidence.*
6. The Council responded on 17 October 2014. It provided the complainant with some of the information that fell within the scope of his requests. However the Council applied section 21 to requests 2a, 3, 5 and 6 and section 22 to request 2b. The Council also applied section 40 to the information that fell within the scope of requests 1, 10, 13 and 14.

7. Following an internal review, the Council maintained its original decision.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 26 February 2015 and asked him to confirm whether the Council's handling of his requests was in compliance with the FOIA.
9. During the Commissioner's investigation, the Council explained that it wrongly handled requests 1 and 12 under the FOIA. Upon reviewing requests 1 and 12, the Commissioner considered that information falling within the scope of these requests would be the complainant's personal data. Insofar as requested information represents the applicant's personal data, an organisation should treat this as a subject access request made under section 7 of the DPA rather than under the FOIA (which by virtue of section 40(1) provides an automatic exemption to first-party personal data). The Commissioner is aware that the Council has provided the complainant with information falling within the scope of requests 1 and 12 and has not considered it further as part of this notice.
10. As the complainant did not specify what he was dissatisfied with, the Commissioner has investigated whether the Council correctly applied section 21 to requests 2a, 3, 5 and 6, section 22 to request 2b and section 40 to requests 10, 13 and 14.

### **Reasons for decision**

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#### **Section 21 – Information accessible to the applicant by other means (requests 2a, 3, 5 and 6)**

11. Section 21(1) provides an exemption for information that is already reasonably accessible to the applicant. It is an absolute exemption and as such no public interest test needs to be applied.
12. The Council has explained to the complainant that the information requested within these requests can be located following the links below:

(a)

[http://www.hounslow.gov.uk/index/transport\\_and\\_streets/parking/cctv\\_enforcement.htm](http://www.hounslow.gov.uk/index/transport_and_streets/parking/cctv_enforcement.htm)

(b)

[http://www.hounslow.gov.uk/parking\\_traffic\\_enforcement\\_policy\\_2013.pdf](http://www.hounslow.gov.uk/parking_traffic_enforcement_policy_2013.pdf)

13. Having therefore considered the above, and in the absence of any conflicting evidence provided by the complainant, the Commissioner has concluded that the withheld information is reasonably accessible to the complainant by other means, and that the Council has correctly applied section 21(1).

### **Section 22 (request 2b)**

14. By virtue of Section 22(1), information is exempt from disclosure if-

*“(a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not),*

*(b) the information was already held with a view to such publication at the time the request for information was made, and*

*(c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in paragraph (a)”.*

15. During the Commissioner's investigation, the Council withdrew its application of section 22 to request 2b. It explained that upon receipt of the request, there was no settled intention to publish the information.

16. The Council explained:

*“Discussions had taken place to review the Council's GIS mapping system with a view to adding the locations of signs warning of the use of CCTV cameras along routes, but there was no settled intention to publish the requested information at a specific date”.*

17. The Council confirmed that the locations of all the CCTV cameras are published on the Council's website<sup>1</sup>. The Council acknowledged that the information on its website does not show the locations of the signs. However it does show the location by colour coding of all the traffic enforcement, community safety and Transport of London cameras.

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[http://www.hounslow.gov.uk/index/transport\\_and\\_streets/parking/cctv\\_enforcement.htm](http://www.hounslow.gov.uk/index/transport_and_streets/parking/cctv_enforcement.htm)

18. The Council also confirmed that it had provided the complainant with the location and sign of the CCTV camera along the route of his particular contravention.
19. The Commissioner considers that it was reasonable for the Council to interpret request 2b to seek information relating to the location and sign along the route in which the contravention occurred rather than all the location and signs of CCTV cameras in general.
20. In light of this the Commissioner is satisfied that the Council has provided the complainant with the information he sought in request 2b.

**Section 40 – (request 10, 13 and 14)**

21. Section 40 of the FOIA specifies that the personal information of a third party must not be disclosed if to do so would contravene any of the data protection principles.
22. Taking into account his dual role as regulator of both the FOIA and the Data Protection Act 1998 (the "DPA") the Commissioner has considered whether the Council was correct to withhold the full names and address of three individuals under section 40(2).

*Is the withheld information personal data?*

23. Personal data is defined by section 1 of the Data Protection Act 1998 ("the DPA") as:

*"...data which relate to a living individual who can be identified–*

*(a) from those data, or*

*(b) from those data and other information which is in the possession of, or is likely to come into the possession of, the data controller,*

*and includes any expression of opinion about the individual and any indication of the data controller or any person in respect of the individual..."*

24. In order for the exemption to apply the information being requested must constitute personal data as defined by section 1 of the DPA.
25. Requests 10, 13 and 14 seek the full names and addresses of three individuals. With reference to the addresses, the Commissioner has considered whether the complainant was seeking the company addresses of the individual's employers or the individual's private addresses. In coming to a view, he has considered that in request 15, the complainant specifically asked for a company address. In light of

this, the Commissioner considers that it is reasonable to assume that the complainant was seeking the private addresses of the individuals.

26. It is clear that the full names and addresses of individuals is information that relates to living individuals who can be identified from that data. The Commissioner is therefore satisfied that the information requested at 10, 13 and 14 is personal data as defined by section 1 of the DPA.

*Would disclosure breach the data protection principles?*

27. The data protection principles are set out in schedule 1 of the DPA. The Commissioner considers that the first data protection principle is most relevant in this case. The first principle states that personal data should only be disclosed in fair and lawful circumstances, the conditions of which are set out in schedule 2 of the DPA.
28. The Commissioner's considerations below have focused on the issues of fairness in relation to the first principle. In considering fairness, the Commissioner finds it useful to balance the reasonable expectations of the data subject and the potential consequences of the disclosure against the legitimate public interest in disclosing the information.

*Reasonable expectations of the data subject*

29. When considering whether a disclosure of personal data is fair, it is important to take account of whether the disclosure would be within the reasonable expectations of the data subject. However, their expectations do not necessarily determine the issue of whether the disclosure would be fair. Public authorities need to decide objectively what would be a reasonable expectation in the circumstances.
30. The Council confirmed that the data subjects were acting on behalf of the Council in providing the functions. It therefore argued that the data subjects would have no reasonable expectation that their full names and addresses would be disclosed to the public in response to an information request.

*The consequences of disclosure*

31. The Commissioner has considered whether there would be any consequences if the information sought in requests 10, 13 and 14 was disclosed.
32. The Commissioner considers that disclosure of the information sought in requests 10, 13 and 14 would be a clear intrusion into the data subject's private life. This intrusion would be distressing to the data subjects.

33. In particular, if the addresses of the individuals concerned were disclosed, this could lead to them being contacted which would cause considerable distress.

*The legitimate public interest*

34. The Commissioner considers that the public's legitimate interests must be weighed against the prejudices to the rights, freedoms and legitimate interest of the individual concerned. The Commissioner has considered whether there is a legitimate interest in the public (as opposed to the private interests of the complainant) accessing the withheld information.
35. In this case the Commissioner considers that there is some legitimate public interest in individuals who carried out functions on behalf of the Council. However in this instance, the information requested relates solely to a private matter concerning a PCN that was served on the complainant. There is therefore little public interest in the individual that carried out a service of the CCTV camera concerned and the individuals who obtained the evidence of contravention and developed it. This information relates to a private matter concerning the complainant and is not a matter of general public interest.
36. On the basis that the data subjects would hold a strong and reasonable expectation that this personal data would not be disclosed, and that disclosure despite that expectation would result in distress, combined with the absence of a legitimate public interest that is strong enough to make disclosure necessary, the Commissioner finds that disclosure would be unfair and in breach of the first data protection principle.
37. The Commissioner's overall conclusion is, therefore, that the exemption provided by section 40(2) of the FOIA is engaged and the Council was not obliged to disclose this information.

**Section 10 – time for compliance**

38. Section 10 of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
39. In this case the complainant made his request to the Council on 18 September 2014. The Council's response to the request was dated 17 October 214.
40. The Commissioner has determined that the Council responded on the 21<sup>st</sup> working day and it has therefore breached section 10(1) of the FOIA.

41. As a full response has now been provided, the Council does not need to take any steps.



## Right of appeal

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42. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

43. 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.
44. 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 .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**