

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 July 2012

Public Authority: Department for Transport
Address: Great Minster House
33 Horseferry Road
London
SW1P 4DR

Decision (including any steps ordered)

1. The complainant requested information about whether certain signs could be used to inform people that CCTV is in operation for the purposes of enforcing parking restrictions. The Commissioner's decision is that the Department for Transport (DfT) breached section 17(1) of the FOIA. This is because it did not provide the complainant with the recorded information it held within the scope of the request within 20 working days and did not provide a notice explaining why it had not done so, as required by section 17(1) of the FOIA.
2. The Commissioner does not require the DfT to take any steps as a result of this decision.

Request and response

3. On 4 February 2012, the complainant wrote to the DfT and requested the following information:

"In the absence of any other sign on the highway can signs 878 and 879 be used to inform people that an MEV using CCTV is enforcing parking restrictions.

If they can be used for MEV CCTV CPE please supply the relevant legislation."

4. The DfT responded on 21 February 2012. It did not handle the request as a formal request for information under the FOIA and instead

responded to the complainant's request in the normal course of business.

5. On 21 February 2012 the complainant wrote to the DfT expressing his dissatisfaction with the response.
6. The DfT responded to the complainant on 24 February 2012, expanding on its previous response and providing some further information in the normal course of business.
7. On 24 February 2012 the complainant requested an internal review. He stated:

"Please now conduct a review of my FOIA request."

8. The DfT responded on 21 March 2012. It stated that it had not reviewed its previous responses to the complainant under the FOIA as the requested information was already in the public domain. It went on to say that the information provided to the complainant was correct as it explained the information held by the DfT and provided links to further relevant information.

Scope of the case

9. The complainant contacted the Commissioner to complain that his request for information had not been handled under the FOIA and explained that he was dissatisfied with the response he had received.
10. The Commissioner wrote to the DfT stating that he considered the complainant's request to be a valid request for information and asking the DfT to provide a valid response under the FOIA. The DfT did so on 26 June 2012. It provided the complainant with some information that it held within the scope of the request. It also issued a refusal notice citing section 21 of the FOIA and section 40(2) of the FOIA for the redactions it made to the information that was disclosed to the complainant.
11. As the DfT has now provided a valid response to the complainant under the FOIA, the Commissioner has only gone on to consider whether the DfT breached any procedural elements of the FOIA in handling the complainant's request.

Reasons for decision

12. The Commissioner is aware that public authorities will sometimes fail to recognise questions as valid requests for information under the FOIA

and will instead deal with them as part of their normal course of business. Where the applicant is satisfied with the response this is unlikely to cause any difficulties. However, where the applicant is not satisfied, the applicant's internal review request gives the public authority a second opportunity to deal with the request under the FOIA.

13. The complainant specifically referred to the FOIA in his internal review request. The DfT did not take this opportunity to provide a valid response to the complainant's request under the FOIA.
14. As the DfT did not provide the complainant with the recorded information it held within the scope of the request within 20 working days and did not provide a notice explaining why it had not done so, the Commissioner considers that the DfT breached section 17(1) of the FOIA.
15. The Commissioner does not require the DfT to take any steps as a result of this decision.

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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

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

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

Pamela Clements
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SK9 5AF