

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 1 April 2020

Public Authority: Manchester City Council
Address: Town Hall
Manchester
M2 5DB

Decision (including any steps ordered)

1. The complainant requested various information about parking enforcement. Manchester City Council ("the Council") provided the requested information, but not within 20 working days.
2. The Commissioner's decision is that the Council failed to respond within 20 working days and thus breached section 10 of the FOIA. She also finds that the Council failed to give effect to the complainant's preference for the means by which he wished to have the information communicated. The Council therefore also breached section 11 of the FOIA.
3. The Commissioner does not require further steps.

Request and response

4. On 13 October 2019, the complainant wrote to the Council and requested information in the following terms:
 - "[1] Does Manchester City Council require that Civil Enforcement Officers employed by NSL carry out interviews under caution in keeping with the Police and Criminal Evidence Act 1984?
 - "[2] Does Manchester City Council require that Civil Enforcement Officers employed by NSL receive adequate training to carry

out their duties in keeping with legislation, regulation and policy?

"[3] The Department for Transport Circular 03/2013 gave the power to seize blue badges that are reasonably suspected to have been used illegally. What is the policy of Manchester City Council regarding the seizure of blue badges?"

"Please let me know if you require any further information....Please respond by email. "

5. The Council responded on 18 November 2019 by letter. It provided the requested information.
6. The complainant sought an internal review because he was unhappy that the Council had delayed its response. Following an internal review the Council wrote to the complainant on 3 January 2020. It upheld its earlier position.

Scope of the case

7. The complainant contacted the Commissioner on 21 January 2020 to complain about the way his request for information had been handled. He accepted that the Council had provided the information he had requested but was unhappy about the delay and the fact that the Council had failed to respond by email – despite having been specifically requested to do so.
8. The Commissioner considers that the scope of her investigation is to consider the Council's compliance with both section 10 and section 11 of the FOIA.

Reasons for decision

Section 10 – Timeliness

9. Section 10 of the FOIA states that responses to requests made under the Act must be provided *"promptly and in any event not later than the twentieth working day following the date of receipt."*
10. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached section 10 of the FOIA.

Section 11 – Means of Communication

11. Section 11(1) of the FOIA states that:

Where, on making his request for information, the applicant expresses a preference for communication by any one or more of the following means, namely—

- (a) the provision to the applicant of a copy of the information in permanent form or in another form acceptable to the applicant,*
- (b) the provision to the applicant of a reasonable opportunity to inspect a record containing the information, and*
- (c) the provision to the applicant of a digest or summary of the information in permanent form or in another form acceptable to the applicant,*

the public authority shall so far as reasonably practicable give effect to that preference.

12. The Council accepted, in its internal review, that the complainant had expressed a preference to receive a response by email and should not have received the response by post. It stated that this had been due to an oversight. The internal review response was provided by email.
13. The Commissioner considers that the complainant expressed a clear preference, when making his request, to have his response provided electronically. The Council failed to give effect to this preference when it responded – although it corrected this via an internal review. The Commissioner therefore finds that the Council breached section 11 of the FOIA when responding to the request.

Right of appeal

14. 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@justice.gov.uk

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

15. 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.
16. 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

Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF