

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 9 May 2017

Public Authority: Brighton & Hove City Council
Address: Kings House
Grand Avenue
Hove
East Sussex
BN3 2LS

Decision (including any steps ordered)

1. The complainant has requested information regarding the loading and unloading leaflet on Brighton & Hove City Council's website. The Commissioner's decision is that, on the balance of probabilities, Brighton & Hove City Council does not hold further requested information. She does not require any steps to be taken to ensure compliance with the legislation.

Request and response

2. On 19 October 2016, the complainant wrote to Brighton & Hove City Council ('the council') and requested information in the following terms:

"I would like to know the exact date and time that the new loading and unloading leaflet was uploaded to the council internet, including web content management (CMS) report...I wish to know the exact date and time this was published online, so if the CMS report is not possible perhaps a Change Management Request to evidence that this followed appropriate Change Management...I wish the council to please provide the old version of the leaflet and the latest version that has been uploaded...I would also hope the council adopt document control and this should also be readily accessible."
3. The council responded on 27 October 2016 with the reference FOI7055. It provided a screen shot of the documents history and the following narrative information:

"We have checked with web communications officer and ICT web developer over the history of the webpage. The web communications officer stated that:

- The Loading and unloading webpage hasn't been updated since the migration to the current website.
- The page hasn't been updated since 20 March 2013 at the latest.
- Because it hasn't been updated in over 2 and a half years, the word 'new' on the page is misleading. Any older document will have been added way before March 2013.

When was that document uploaded?

- For all documents added to our current website, we have a timestamp of when documents have been uploaded. This is what this individual wants.
- For all documents added before our current website was launched, we (Digital Comms) don't have access to a timestamp of when documents have been uploaded.
- This document was uploaded before we migrated to our current website. We can infer from that, that this document has been on this webpage since 20 March 2013.

Having spoken with the Joint Acting Head of Parking and Parking Services Team leader it is believed the leaflet on the webpage as designed some years ago circa 2011 / 2012. Some of the information is now incorrect

That incorrect information is:

- The phone numbers mentioned on the leaflet starting with 0845 mentioned were replaced in June 2015 by a 0345 prefix
- The car pound mentioned was not part of the new 2012 parking contract with NSL. Vehicles are now relocated not removed to a pound

Neither are aware of any request to the graphics team for an amendment of the leaflet"

4. The complainant expressed dissatisfaction with the response on 27 October 2016. He stated that he also requested the old version of the document and a Change Management Record. He also said that the screen shot doesn't indicate whether it relates to the webpage or the embedded document and that the 'Moderate' section is highlighted rather than the 'Published' section.

5. On the same day, and as a result of the council's response reference FOI7055, the complainant also made the following requests:

"Please provide...evidence of ALL changes to the parking area of the council website since 01/01/2011 to 27/10/2016...This can be specifically focussed on the loading and unloading section, but if this is not possible then I request ALL changes please...all change management requests relating to the parking website through these dates...would also like to see ALL documents including drafts and the latest version of the loading and unloading leaflet and all supported document control, including author and dates and please also provide all **metadata** to support these documents."

6. The council provided an internal review on 9 November 2016. It said that it does not hold information relating to the specific document and other documents as it does not have access to timestamps of documents uploaded prior to the migration of the current website. It stated that it provided the complainant with information stating that there have been no updates to the Loading and unloading webpage since the migration to the current website and the page hasn't been updated since 20 March 2013 and that this information was provided by the Web Communications Officer and ICT Web Developer. The council also referred to its previous statement that the word 'new' on the page was misleading and said that since then it has asked for this to be amended to avoid further confusion. It confirmed that the leaflet available on its website is the only leaflet that has ever been in circulation/ publication, and that it is Version 1. In addition, it referred to the complainant being advised by Joint Acting Head of Parking and the Parking Services Team Leader that the leaflet may have been designed some years ago circa 2011/2012. It noted that if it were to review a document it would consider all changes, and that the complainant was advised that this leaflet also has incorrect information in regards to contact information and reference to a car pound, and that if a change had taken place it would have been amended as this information predates 2013. It said that the Graphics Team have also confirmed that there have been no requests for an amendment to this leaflet.

Scope of the case

7. The complainant contacted the Commissioner on 9 November 2016 to complain about the way his request for information had been handled. He said he had concerns around the lack of provision of a document. He also said he is disputing the exemptions applied to other documents.

8. On 20 March 2017, the Commissioner told the complainant that the correspondence he had provided did not appear to refer to any exemptions within the FOIA and therefore if he wants the Commissioner to consider another request to which exemptions have been applied, relevant documentation would need to be provided. The Commissioner confirmed the scope of the complaint to be consideration of the following requests contained within his communications of 19 and 27 October 2016:
 1. The exact date and time the new loading and unloading leaflet was uploaded to the council internet.
 2. The web content management (CMS) report for the new loading and unloading leaflet.
 3. The Change Management Request for the new loading and unloading leaflet.
 4. The old version of the leaflet and the latest version that has been uploaded.
 5. Document control for the new loading and unloading leaflet.
 6. Evidence of all changes to the parking area of the council website since 01/01/2011 to 27/10/2016 including all change management requests ...This can be specifically focussed on the loading and unloading section, but if this is not possible then all changes.
 7. All documents including drafts and the latest version of the loading and unloading leaflet and all supported document control, including author and dates.
 8. All **metadata** for all versions of the loading and unloading leaflet.

9. The Commissioner has considered whether, on the balance of probabilities, the council holds further information, in addition to that already provided to the complainant, within the scope of the above requests.

Reasons for decision

10. Section 1 of the FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.

11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by

the public authority to explain why the information is not held. She will also consider any reason why it is inherently likely or unlikely that information is not held. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

12. The Commissioner informed the council that she appreciates that it has explained that the loading and unloading leaflet available on its website is the only leaflet that has ever been published, but, for absolute clarity, asked the council to confirm whether the information is held or not held for each of the requests numbered 1 – 8 (paragraph 8).
13. The council provided the following, general, reply:

“There is only one Loading and Unloading leaflet. The ICO refer to a new leaflet in question one above but for the avoidance of doubt the Council wish to make it clear that this leaflet is the only one that has ever been created. It was this leaflet which was uploaded to the Council website. The leaflet exists as a PDF document. The document file is not part of the web page; it is simply a stand-alone document that is linked via the web page. Changes would be done off line and then the entire file would be re-uploaded. The Council would be able to see on its internal servers the last date of modification of the pdf document file. Given this we have attempted to answer the questions below as fully as possible.”
14. The council then addressed each of the requests numbered 1 – 8 which the Commissioner will now look at in turn.
15. In response to request 1, the council said that this information is held and explained that a new version of its website was made live in April 2013 at which point the contents of the old website were migrated over and the file has not been changed since. The Commissioner noted that the statement that the website was made live in April 2013 appeared to conflict with the council's earlier explanation, in its initial response to the complainant and its internal review, that this document has been on the new website since 20 March 2013, and its provision of a screen shot ('History of loading and unloading') showing that the leaflet was embedded on the webpage on 20 March 2013 at 12.44. She therefore contacted the council who clarified that the leaflet was uploaded to the new website on 20 March 2013 in advance of the new website going live in April 2013. The council also informed the Commissioner that the 'moderate actions' on the screenshot shows that the document was originally published on the council's previous website on 11 October 2012 at 18.51. The Commissioner therefore considers that the complainant has already been provided with the date and time the

leaflet was uploaded to the old and new version of its website by the provision of the 'History of loading and unloading' screen shot on 27 October 2016.

16. In response to request 2, the council said that this information is held and referred to the 'History of loading and unloading' screen shot. The Commissioner therefore considers that the complainant has already been provided with the requested web content management (CMS) report in the form of the 'History of loading and unloading' screen shot provided on 27 October 2016.
17. In response to request 3, the council said this information is not held. It explained that there is no Change Management Request process for a web change and that if a member of a team wishes to amend an area of the website they can amend changes "offline" to the webpage and this is submitted to the Digital Communications Team via a workflow process on the website. It said that only the Digital Communications Team are authorised to publish information on the website and it provides support and advice along with an overall editorial overview. This explanation, together with the considerations below (paragraphs 23 to 25), has satisfied the Commissioner that, on the balance of probabilities, this information is not held by the council.
18. In response to request 4, the council said that this information is not held as there is only one version of this leaflet. This explanation, together with the considerations below (paragraphs 23 to 25), has satisfied the Commissioner that, on the balance of probabilities, the council does not hold an 'old' and 'latest' version of the leaflet. The one version that is held is available to the public on the council's website.
19. In response to request 5, the council said that this information is not held. It reiterated that there is only one version of this leaflet, that being the current version available on the website. It explained that document control correspondence, such as it was, may have been held within an ex employee's email account as Policy and Development Officer, however, they left the council in early 2012 and it no longer has have access to that inbox. Given that the request is for document control for the **new** loading and unloading leaflet, and the explanations that there is only one version, the Commissioner is satisfied that, on the balance of probabilities, this information is not held by the council.
20. In response to request 6, the council said that this information is not held. It explained that there have been no changes to the entire Loading and unloading webpage on the council website since it was moved across. The Commissioner noted that the new version of its website was made live in April 2013 but the request was for evidence of all changes since 01/01/2011. She therefore contacted the council to enquire

whether there were any changes to the 'loading and unloading' section of the parking area of the council website between 01/01/2011 and April 2013 and if so whether it holds evidence of those changes. The council confirmed that the only change to the 'loading and unloading' section of the parking area of its website between 01/01/2011 and April 2013 was the addition of the loading and unloading leaflet on 20 March 2013. The Commissioner therefore considers that this information, that being 'evidence of ALL changes to the parking area of the council website since 01/01/2011 to 27/10/2016', has already been provided to the complainant.

21. In response to request 7, the council said that this information is not held as there is only one version of the leaflet. It explained that the process of developing this publication was that the draft leaflet was worked on jointly with previous versions overwritten to the finalised publication so no draft version is held. Towards the end of the Commissioner's investigation, the council provided the complainant with the Word version of the loading and unloading leaflet, and associated metadata, and 3 PDF proofs which include evidence of small textual changes which it said are often made at proof stage before printing the final document and which account for any discrepancies between the Word document and the final printed leaflet in PDF form. The council's explanation, together with the considerations below (paragraphs 23 to 25), has satisfied the Commissioner that, on the balance of probabilities, further information is not held by the council.
22. In response to request 8, the council said that it has provided the metadata for this leaflet in the form of the screen shot of the history of 'Loading and unloading'. The Commissioner considers that metadata of the PDF version of the leaflet also exists. Having informed the council of this, the council provided the complainant with such metadata during the course of this investigation. The council also provided the complainant with the metadata for the Word version of the document. Therefore, the Commissioner considers that the complainant has been provided with the metadata requested.
23. The Commissioner enquired as to whether further information has ever been held, the scope, quality, thoroughness and results of the searches carried out by the council, whether information had ever been held but deleted and whether copies of information may have been made and held in other locations. The council said that it knows that this leaflet was held only as a link on the webpage and as a file on the server therefore no searches apart from on the webpage needed to be made. It also explained that the leaflet, in physical form, still exists and is part of the leaflets held at the parking permit centre which can be given to customers and that it looked at this leaflet and the one on the website, and they are the same leaflet with no alterations between the two. The

council also explained that no information has been deleted or destroyed and that the graphics team hold all published documents within their project management database (Synergist), and all publications are given a unique number so they can be easily traced and that there are no archived versions. It said that the use of the word 'new' on the website points only to the fact that it, the leaflet, had been created for the first time and does not point to an overwrite of a previous version.

24. In reaching a decision as to whether further requested information is held, the Commissioner also enquired whether there was any legal requirement or business need for the council to hold further information. The council confirmed that it is under no statutory obligation to retain this type of information and that there is no evidential business purpose for keeping draft publications for that period of time.
25. The Commissioner also considered whether the council had any reason or motive to conceal the requested information. The complainant has alleged that the council updated the leaflet after issuing him with a parking ticket on 15 August 2016, to include a reference to a five minute load time that he believes was not previously included, and published the updated version online, in order to support its issuing of the parking ticket. The Commissioner has considered this but she has not seen any evidence of wrongdoing surrounding its records management obligations. She also notes that the proof PDFs and the Word version of the leaflet all contain the reference to the five minute period.
26. The complainant said that the screen shot provided just mentions loading and unloading and questioned how he would be aware that this is the actual PDF that has been uploaded and not the actual web page itself. He said that this could quite rightly be the date/time stamp that the page was published not the date/time that the embedded document was uploaded on this page. The Commissioner therefore asked the council to clarify whether the screenshot provided to the complainant relates to the webpage or the loading and unloading leaflet embedded on the webpage. The council confirmed that the screenshot related to the loading and unloading leaflet embedded on the webpage.
27. The complainant also questioned why the 'Moderate' section of the screen shot was provided and not the 'View Published' section. He said that surely the view published screen will provide history or otherwise of what has actually been published, but this aside, he cannot be certain what this relates to and would more likely say this is the date/time the web-page was published, not the document uploaded. The Commissioner therefore asked the council to confirm what information is held under the 'view published' tab. The council explained that the 'view published' tab shows what information will be viewable by the public on the website as follows:

"Parking regulations permit a vehicle to stop to load or unload on single or double yellow lines with no loading ban.

While you can load or unload for as long as it takes, your vehicle must be moved immediately when you have finished loading or unloading.

Our new [Loading and unloading leaflet \(PDF 684KB\)](#) explains where you can and cannot load and unload in the city."

The Commissioner understands that it relates to the text viewable on the webpage itself, rather than an embedded leaflet.

28. In the circumstances, the Commissioner does not consider that there is any evidence that would justify refusing to accept the council's position that it does not hold further information relevant to this request. The council has provided adequate explanations as to why further information is not held. The Commissioner is therefore satisfied that on the balance of probabilities, further information is not held by the council. Accordingly, she does not consider that there is any evidence of a breach of section 1 of the FOIA.

Right of appeal

29. 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

30. 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.
31. 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

Deborah Clark
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF