

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 23 August 2019

Public Authority: Sheffield City Council
Address: Town Hall
Pinstone Street
Sheffield
S1 2HH

Decision (including any steps ordered)

1. The complainant requested information about where trade parking permits can be used, stating a preference for communication. Sheffield City Council did not provide the requested information in the expressed preference for communication.
2. The Commissioner's decision is that Sheffield City Council does not have to communicate the requested information in the expressed preference for communication. However, she considers that Sheffield City Council has breached section 11(3) (Means by which communication to be made) of the FOIA as it did not inform the complainant why it was not providing the requested map in his expressed preference for communication.
3. The Commissioner also considers that Sheffield City Council has breached sections 10(1) (Time for compliance) and 16(1) (Duty to provide advice and assistance) of the FOIA.
4. The Commissioner does not require Sheffield City Council to take any steps as a result of this decision.

Request and response

5. On 10 August 2018, the complainant wrote to Sheffield City Council (the council) and requested information in the following terms:

"I wish to request the following documents under the Freedom of Information Act 2000:

1) A full and detailed list and its accompanying maps(s) in full colour at a scale of 1:500 on A4 showing all of the places (streets/roads etc.) where a valid "TR" parking permit allows a vehicle to park.

Please respond so that each reply is situated next to each individual request."

6. The council responded on 14 August 2018. It explained that trade parking permits allow tradespeople to park whilst they are working within Sheffield permit zones. It also explained that as a map was available showing where trade parking permits were valid, it refused to provide the requested information, citing the following exemption:
- Section 21 (information accessible to applicant by other means) of the FOIA.
7. The council also provided links to a map which showed parking permit zones and how to apply for a parking permit. Additionally, it acknowledged that the complainant had requested information in a specific format and explained that under section 11(3) (Means by which communication to be made) of the FOIA, it was not obliged to provide information in a specific format if it is not reasonably practicable. The council confirmed that, as the information is already accessible, it believed that this provided the underlying information the complainant was hoping to obtain. It also explained that, in accordance with section 11(4) of the FOIA, it believed this was reasonable in the circumstances.
8. On 23 September 2018 the complainant requested an internal review. He explained that section 21 could not apply as the information was not available via the link provided. He also explained that he considered that the council had not complied with sections 11(3) and (4) of the FOIA.
9. Following an internal review, the council wrote to the complainant on 30 November 2018. It apologised for the delay in providing the internal review and explained that it had experienced a large number of requests and as a result had a backlog. The council confirmed that it had allocated extra resources to addressing the backlog and apologised for any inconvenience caused.
10. The council also explained that it had reviewed the information which was accessible from the parking area of its website. It agreed that, as the complainant had pointed out in his request for an internal review,

the map had not, at the time of its initial response, been updated to include all the areas where trade parking permits were applicable. The council also explained that all such locations have signage in place which enable individual drivers to be aware of the parking restrictions in place in the relevant zones and streets relating to the permit they hold.

11. The council acknowledged that it had applied section 21(1) of the FOIA, as it considered that the interactive map included details relating to the trade parking permits. It also explained that it was only when the council had received his request for an internal review that it realised that a small number of areas where parking restrictions were in place, was not available. The council confirmed that as a result of some technical changes, the map in question now showed parking permit enforced zones within Sheffield. It also explained that its application of section 21(1) was correct in relation to the information available on its website at the time of the response, but it did not cover the full range of sites covered by his request; as a result it was in breach of section 10 of the FOIA as it had not provided a full response to his request within the 20 working day period prescribed by FOIA. The council apologised for this error.
12. Furthermore, the council explained that with regard to a point raised by the complainant about section 11, it considered it had complied with that section.
13. The council confirmed that it had updated the map in question to include trade parking permits and was no longer relying on section 21.

Scope of the case

14. Initially, the complainant contacted the Commissioner on 16 November 2018 to complain about the way his request for information had been handled. He explained that the council had not given him any reasons why the requested information had not been disclosed to him in the format requested. He also explained that the council had taken longer than 20-40 working days to respond to his request for an internal review.
15. The Commissioner contacted the council on 29 November 2018 about the lack of an internal review. The council carried out the internal review on 30 November 2018. The complainant contacted the Commissioner on 7 December 2018 and explained that he was not satisfied with the internal review. He also stated the following:

"1) SCC have failed to explain at all, let alone in full, as to why they have failed to respond to my request for an internal review within the ICO guidelines, along with only responding to me when I raised a

complaint with yourself and you subsequently contacted SCC. If there was a backlog of requests for internal reviews, which I simply do not believe, no evidence has been furnished to me by SCC to support their claim along with SCC not communicating this to me and also, if possible, providing me with an apology along with a notification that SCC would need additional time to respond in full to my request for an internal review.

2) The latest information provided on the following link (<https://www.sheffield.gov.uk/content/sheffield/home/parking/apply-parking-permit/parking-permit-zones.html>) still does not provide the information that I have requested in that it does not show/display where Trade parking permits are and are not allowed thus contradicting both SCC's original response and that of their subsequent internal review. This therefore continues to breach Section 11(3) and Section 11(4) of the FOI Act 2000.

3) SCC have blatantly acted in a duplicitous manner when providing their responses along with their apologies being woefully inadequate of which I do not accept. Furthermore, I am still without the information that I have requested. It is now clear that this is being wilfully withheld by their actions or lack of.

I want the following undertaking to satisfactorily resolve my complaint:

1) The information that I have requested within 28 calendar days (no later than Thursday 3 January 2019) as this is grossly overdue,

2) Compensation of 100.00 from SCC within 28 calendar days (no later than Thursday 3 January 2019) for their continued abysmal performance dealing with my FOI request and my ongoing dealings with both them and yourself to simply obtain the information that I have requested and am entitled to,

3) A sincere apology from SCC and what actions it will be taking against their personnel that are directly or indirectly responsible for their failings, both within 28 calendar days (no later than Thursday 3 January 2019), and

4) What actions you will be taking against SCC for their failings and if none, why this is the case."

16. The Commissioner explained to the complainant that she does not have powers to request compensation payments or to fine public authorities in connection with their responsibilities under the FOIA or the Environmental Information Regulations 2004. She also explained any potential actions that may be taken against the council in this case were dependent upon the outcome of her investigation. In addition, the

Commissioner explained that if the complainant was entitled to further information, she may issue the council with a decision notice requiring it to provide that further information.

17. The Commissioner also explained that the delay in providing the internal review response would be logged.
18. During the Commissioner's investigation, the council disclosed an amended map to the complainant. The complainant contacted the Commissioner and explained that to date, the council had not provided him with the information in the requested format ie: *'A full and detailed list and its accompanying maps(s) in full colour at a scale of 1:500 on A4'*.
19. The complainant also reiterated that the council had not given him any reasons why the information had not been disclosed to him in his requested preference for communication.
20. The Commissioner will consider the way in which the council handled this request under the FOIA.

Reasons for decision

Section 11- Means by which communication to be made

21. Section 11(1) of the FOIA provides that where an applicant expresses a preference for a particular method of communication, the public authority shall, so far as reasonably practicable, give effect to that preference.
22. Section 11(2) provides that when determining whether it is reasonably practicable to communicate by particular means, a public authority may consider all the circumstances of the case, including the cost of doing so.
23. Section 11(3) provides that where it is not reasonable to comply with any expressed preference, the public authority will let the requester know.
24. Section 11(4) provides that a public authority may comply with a request by any means which are reasonable in the circumstances.
25. The Commissioner has considered the wording of the request and notes that the complainant expressed a preference for a particular method of communication. She contacted the council about this.
26. The council explained that the complainant asked for the map to be provided in hard copy in full colour at a scale of 1:500 on A4. It

confirmed that it does not hold the map in the expressed preference.

The council also explained that it considered that to provide the map in the expressed preference would be excessive and exceed the cost limit, as the scale of 1:500 is 10 feet to 1 mile. In addition, the council explained that it considered that a map of this scale was accessible by other means as the complainant could purchase a map of the area and required scale from the Ordnance Survey; the complainant could use the map provided by it to mark the areas where trade parking permits could be used.

27. The Commissioner has considered the council's explanations about why it did not comply with the expressed preference for communication requested by the complainant. With regard to the scale of the map, she considers that it would not have been reasonably practicable for the council to provide the complainant with the requested map in his expressed preference, because of the size involved.
28. The council also explained that there would be cost implications. With regard to the cost of complying with the requester's expressed preference for communication, the Commissioner deals with this in her guidance on section 11¹. The Commissioner explains that a public authority can take into account the cost of assessing whether it is reasonably practicable to comply with a expressed preference for communication.
29. The council explained that its Geographical Information System (GSI) software allows for maps of any scale to be created online or printed. The council also explained that ArcGIS (which allows a map to be created that can be viewed in a browser, desktop or mobile device) does not currently allow someone to zoom the map to a 1:500 scale, but does allow sufficient detail to allow someone to see the streets that allow the use of trade parking permits.
30. The council also explained that its GIS officer had created a grid layer to represent the A4 page size at 1:500 and used ArcGIS functionality to mark out and calculate how many pages it would take to print the areas where trade parking permits can be used. The result was approximately 850 pages. The council explained that its GIS officer confirmed that printing the map would be a manual and arduous task.
31. Additionally, the council explained that to produce the map to the scale 1:500 would include the cost of printing, sorting and posting the 850

¹ <https://ico.org.uk/media/for-organisations/documents/1163/means-of-communicating-information-foia-guidance.pdf>

pages and also the GIS Officer time to do this. It confirmed that considering the printing costs alone, based on £1 per sheet, would be £850. The Commissioner considers that, taking the cost of the printing alone, it would not be reasonably practicable to communicate the requested information in the expressed preference for communication.

32. Taking all of the above into account, the Commissioner considers that it would not be reasonably practicable for the council to provide the requested information to the complainant in his expressed preference for communication.
33. However, the Commissioner considers that the council has breached section 11(3) as it did not inform the complainant why it could not provide him with the map in his expressed preference for communication.
34. The Commissioner also notes that the complainant has asserted that the council has breached section 11(4). In her guidance, the Commissioner explains that if a public authority decides it is not reasonably practicable to comply with the requester's preference, it may provide the information by any other means that are reasonable in the circumstances.
35. The Commissioner notes that the council did provide the complainant with an amended map showing where trade parking permits are applicable. The Commissioner therefore considers that it has not breached section 11(4).
36. The complainant submitted his request on 10 August 2018. The council did not confirm that it not hold the map in the applicant's expressed preference for communication until the internal review of 30 November 2018.

Section 10 – Time for compliance

37. Section 10(1) of the FOIA provides that a public authority must respond to a request promptly and in any event no later than 20 working days after the date of receipt.
38. The Commissioner considers that the council has breached section 10(1) as it took longer than 20 working days to confirm that it did not hold the requested information in the expressed preference for communication.

Section 16 – Duty to provide advice and assistance

39. Section 16(1) of the FOIA provides that a public authority has a duty to provide advice and assistance to a requester as far as it would be reasonable to do so.
40. The Commissioner notes the council's explanation that it considered that a map of the scale requested was accessible by other means as the complainant could purchase a map of the area and required scale from the Ordnance Survey; the complainant could then use the map provided by the council to mark the areas where trade parking permits could be used. However, the council did not explain this to the complainant.
41. The Commissioner therefore considers that the council has breached section 16(1).

Other matters

42. The complainant requested an internal review on 23 September 2018. The council responded on 30 November 2018.
43. Part VI of the section 45 Code of Practice (the code) makes it good practice for a public authority to have a procedure in place for dealing with complaints about its handling of requests for information.
44. While no explicit timescale is laid down in the code, the Commissioner has decided that a reasonable time for completing an internal review should normally be within 20 working days of receipt of the request for review. In exceptional circumstances it may be reasonable to take longer but in no case should the time taken exceed 40 working days.
45. The complainant complained to the Commissioner on the 40th working day after requesting an internal review, that he had not received one. Given that there is no statutory time limit to respond to an internal review, the Commissioner does not consider it unreasonable to have recommended that the council issue an internal review decision within 20 working days. The Commissioner contacted the council about this on 29 September 2018 and the council acted on her advice by issuing an internal review on the following day. The Commissioner notes that the council apologised for the delay, explained that it had a backlog of requests and confirmed that it had allocated extra resources to address the backlog.
46. An internal review allows a public authority to reconsider its response. The Commissioner notes that the internal review in this case resulted in further information being made available to the complainant.

Right of appeal

47. 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

48. 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.
49. 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

Jon Manners
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