

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 14 December 2022

Public Authority: Warwickshire County Council
Address: Shire Hall
Warwick
CV34 4RL

Decision (including any steps ordered)

1. The complainant made two requests for information about Penalty Charge Notices ("PCNs"). The above public authority ("the public authority") refused both requests as vexatious, but also relied on section 40(2) of FOIA (third party personal data) to withhold some information.
2. The Commissioner's decision is that the public authority was entitled to rely on section 14(1) of FOIA to refuse both requests in their entirety.
3. The Commissioner does not require further steps.

Request and response

4. On 29 July 2022, the complainant wrote to the public authority and requested information in the following terms:

"1. Please confirm how many "orange" car owners were issued with PCNs on the date on 03/01/2022 between 1100 and 1200. 2. Please confirm how many "blue" car owners were issued with PCNs on the date on 03/01/2019 between 1100 and 1200. 3. Please confirm how many "orange" car owners were issued with PCNs on the date on 03/05/2022 between 1100 and 1200. 4. Please confirm how many BMW car owners were issued with PCNs on the date on 03/05/2022 between 1100 and 1200. 5. Please confirm how many Honda car owners were issued with PCNs on the date on 03/07/2022 between 1100 and 1200. 6. Please confirm if the role of 'Senior Appeals and Representations Officer' is a role that is directly employed by the

- council, or is contracted. If employed by the council, please provide a person specification and job description. 7. Please provide the salary of said title (Senior Appeals and Representations 'Officer')."
5. On the same day, he made a further request for information:
- "1. Please confirm how many "grey" car owners were issued with PCNs on the date on 03/01/2019 between 1100 and 1200. 2. Please confirm how many "blue" car owners were issued with PCNs on the date on 07/01/2019 between 1100 and 1200. 3. Please confirm how many "orange" car owners were issued with PCNs on the date on 21/05/2022 between 1100 and 1200. 4. Please confirm how many BMW car owners were issued with PCNs on the date on 19/05/2022 between 1100 and 1200. 5. Please confirm how many Honda car owners were issued with PCNs on the date on 18/07/2022 between 1100 and 1200. 6. Please confirm how many emergency vehicles, or vehicles being used for "ambulance purposes" received a PCN between 1300 and 1330 on the 06/10/2020. 7. Please confirm how many vehicles were incorrectly issued with a PCN, or later Deemed that the 'contravention did not occur' on the 06/10/2021 between 1300 and 1330"
6. The public authority responded to both requests on 24 August 2022. It refused the second request and the first five elements of the first request as vexatious. It relied on section 40(2) of FOIA to withhold the information it held within the scope of elements [6] and [7] of the first request. It upheld this position at internal review.

Reasons for decision

7. A public authority may refuse a request it considers to be vexatious. The term "vexatious" has been defined in law as one "likely to cause a disproportionate or unjustified level of disruption, irritation or distress" or as a "manifestly unjustified, inappropriate or improper use of a formal procedure."
8. The complainant has explained to the Commissioner that his motivation for making the request was to:
- "further investigate my ongoing complaint where my vehicle was incorrectly issued with a parking charge. I intend to utilise my right under the relevant act, to further investigate trends and patterns, to ascertain if this is an isolated error or wider problem."
9. In correspondence to the Commissioner dated 14 October 2022, the complainant further explained that:

"I have informed the council this is required as part of my investigation to a current case I preparing against the council. It is my genuine right and requirement to obtain this information, and it required to ascertain any trends and seniority of workers involved...I have an ongoing complaint with the LGSCO regarding the original issue, the council have failed to engage with the ombudsman to this date."

10. The complainant also argued that he had narrowed down his request because earlier requests had been refused as burdensome.
11. The Commissioner is of the view that both requests were vexatious – in their entirety. The complainant is clearly aware of the options available if he considers that a PCN has been unreasonably issued to him – indeed it is evident from his submissions that he is already pursuing at least one of these avenues. Given the wide information-gathering powers available to both the LGCSO and the Tribunal, the Commissioner is sceptical that a request under FOIA is necessary for those bodies to gain access to relevant information held by the public authority.
12. Furthermore, the Commissioner agrees with the public authority that the broader value of the requests to the general public is negligible. By only seeking information about PCNs issued to cars of a specific colour (or made by a specific manufacturer) during very specific time periods, the value of complying with the requests will be very limited. The resulting data is unlikely to be of considerable use to anyone wishing to evaluate the public authority's processes for issuing PCNs as it will reveal only a tiny (and potentially misleading) proportion of a much larger picture.
13. It is evident from the requests and associated correspondence that the complainant has an underlying grievance with the public authority relating to the issuing of a PCN. Whether or not that grievance is valid, the Commissioner does not consider that dealing with the request would bring that underlying grievance any closer to a resolution. Furthermore, although the public authority chose to comply with elements [6] and [7] of the first request, the Commissioner considers that the same factors referred to above apply to all seven elements of the first request.
14. The public authority was therefore entitled to rely on section 14(1) of FOIA to refuse both requests in their entirety.

Right of appeal

15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

16. 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.
17. 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

Roger Cawthorne
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