

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 May 2024

Public Authority: Reading Borough Council
Address: Civic Offices
Bridge Street
Reading
RG1 2LU

Decision (including any steps ordered)

1. The complainant requested a copy of the event management plan submitted by the organisers of Reading Festival. Reading Borough Council (the Council) stated the information was exempt under sections 43 (commercial interests), 40(2) (personal data) and 38 (health and safety of the FOIA). During the course of the Commissioner's investigation it became apparent that the Council had failed to initially identify the actual information falling within the scope of the request.
2. The Commissioner's decision is that Council breached section 1(1)(a) of the FOIA in failing to confirm or deny whether the information requested was held and section 10(1) in failing to confirm the information requested was held within the statutory timescale.
3. The Commissioner requires Council to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request which considers all of the information held within the scope of the request and either disclose the information held or issue a valid refusal notice which complies with section 17 of the FOIA.
4. The public authority must take these steps within 30 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court

pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 14 September 2023 the complainant wrote to the Council and requested information in the following terms:

“Please could you provide a copy of the event management plan that the organisers of Reading Festival are required to submit to the council in line with their premises license”.

6. The Council responded on 20 October 2023 and stated that the information requested was exempt under sections 43(2), 40(2) and 38 of the FOIA.
7. On 20 October 2023 the complainant requested an internal review of the Council’s refusal to provide the information requested. They confirmed that they were not seeking access to personal information. In addition, the complainant accepted that the exemptions quoted would only apply to some of the information requested and not all of it.
8. The Council provided the outcome of its internal review on 13 December 2023 and upheld its position that sections 43(2), 40(2) and 38 applied to the requested information.

Scope of the case

9. The complainant contacted the Commissioner on 13 December 2023 to complain about the way their request for information had been handled.
10. During the course of the Commissioner’s investigation, he asked the Council to furnish him with a copy of the information it had withheld relevant to the request in order for him to consider the application of the exemptions cited with direct reference to the information which had actually been withheld.
11. On receipt of the withheld information, the Commissioner noted that the Council had provided a copy of the Major Incident Plan for Reading Festival whereas the complainant had requested a copy of the event management plan for the event. The Commissioner contacted the Council to query this apparent anomaly. Following additional searches that the Council undertook, it confirmed to the Commissioner that it held a copy of an event management plan for Reading Festival.

12. In light of the above, the scope of the Commissioner's investigation into this case is to determine whether the Council has complied with its obligations under section 1 and section 10 of the FOIA in its handling of the request.

Reasons for decision

Section 1 – general right of access

Section 10 – time for compliance

13. Section 1 of FOIA states that "any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request".
14. Section 10(1) provides that a public authority must comply with section 1 promptly and in any event not later than the twentieth working day following the date of receipt of a request for information.
15. As stated earlier in this notice, it became apparent during the Commissioner's investigation that when it initially responded to the request for information in this case, the Council had not considered the actual information held relevant to the request. The Council had considered the Major Incident Plan for the event in question instead of the actual information that the complainant had requested – ie the event management plan.
16. From the facts of this case, the Commissioner finds that the Council breached section 1(1)(a) in failing to confirm to the complainant that it held the requested information by the completion of its internal review. In addition, in failing to advise the complainant that the requested information was held within the statutory time limit the Commissioner also finds that the Council breached section 10(1) of the FOIA.
17. The Commissioner now requires the Council to issue a fresh response to the request which considers the actual information falling within the scope of the request. The Council should either disclose the information held relevant to the request, or issue a valid refusal notice that complies with section 17 of the FOIA.

Other matters

18. Although they do not form part of this decision notice the Commissioner would like to note the following matter of concern.

19. As stated earlier in this notice, it was only after the intervention of the Commissioner that it became apparent that the Council had not actually considered the information falling within the scope of the request for disclosure.
20. The Council should ensure in future that its first step upon receiving an information request is to identify any relevant information held. Only then should it consider to what extent this information may be covered by any exemptions. A failure to obtain or consider the actual information requested could result in an incorrect or inaccurate response being issued. The Commissioner considers that this is extremely poor practice.
21. The Commissioner would recommend that the Council reminds itself of its obligations under the FOIA to ensure that any future requests are handled in accordance with the provisions of the FOIA.

Right of appeal

22. 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

23. 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.
24. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Joanne Edwards
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