

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 December 2014

Public Authority: Bristol City Council

Address: City Hall
College Green
Bristol
Avon
BS1 5TR

Decision (including any steps ordered)

1. The complainant has requested the details of how many motor vehicles have been seized for non-payment of unpaid penalty notices during the last 5 years, together with the registration of the vehicles which had been registered with the Traffic Enforcement Centre Court. The council provided details of the number of seizures but refused to provide the registration of the vehicles on the grounds that section 40(2) of the Act applied (personal data). The complainant also asked the council to provide him with details of a specific contact details for an individual member of the public who had had correspondence with the parking enforcement officer previously. Again the council refused to provide details of the person under section 40(2) of the Act.
2. The Commissioner's decision is that Bristol City Council has correctly applied section 40(2) to the information it withheld.
3. The Commissioner does not require the authority to take any steps.

Request and response

4. On 16 September 2014 the complainant wrote to council and requested information in the following terms:

"I, [name and contact details redacted] do hereby make a request outside the Freedom of Information Act 2000 as under the Civil Procedure Rules Part 31.

*7. Since the Bristol City Council does instruct the Enforcement Agents-
How Many Motor Vehicles had been seized for non-payment of the
Unpaid Penalty Notice during the last Five Years-*

*If you could provide and disclose copies of the Registration which had
been registered in the Traffic Enforcement Centre Court...*

*8. I request that you should forward this Email to [name redacted],
and provide me with his address, Tell and Fax Number*

*I don't know whether or not He has requested for a review of the
decision made by [name of officer redacted]."*

5. The council responded on 23 September 2014. It said that it only holds details of seizures from 2011 as prior to that a different contractor was used. It did however provide details of the number of seizures from 2011 to the time of the request.
6. The council applied section 40(2) to the request for details of the registration numbers of the vehicles. It also applied section 40(2) on the contact details of the individual named by the complainant in his request.
7. Following an internal review the council wrote to the complainant on 30 September and confirmed that it had upheld its earlier decision.

Scope of the case

8. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
9. The Commissioner considers that the complaint is that the council did not provide details of the vehicle registration numbers of the documents, and did not provide contact details for the individual he had named.

Reasons for decision

Section 40(2)

10. There are 2 separate aspects of this complaint, a) the request for vehicle registration details and b) the request for contact details of the named individual.

11. Information is exempt from disclosure on the basis of section 40(2) if it constitutes third party personal data (i.e. the personal data of anyone other than the individual making the request) and either the first or second condition in section 40(3) is satisfied.

Is the information personal data?

12. Personal data is defined in section 1 of the Data Protection Act (DPA) as follows:

'.....data which relate to a living individual who can be identified from those data or from those data and other information which is in the possession of, or likely to come into possession of, the data controller; and includes any expression of opinion about the individual and indication of the intentions of the data controller or any person in respect of the individual.'

13. The Commissioner has previously considered whether a vehicle registration plate number is personal information for the purposes of the Data Protection Act 1998 (the 'DPA').
14. In Decision notice FS50186040 available at http://www.ico.gov.uk/~media/documents/decisionnotices/2009/FS_50186040.ashx his decision was that as it is possible to identify the owners of vehicles from the registration plates then that information is personal data.
15. The Commissioner is also satisfied that a disclosure of the contact details of an individual would be personal data.

Would the disclosure of the information contravene any of the data protection principles?

16. The Commissioner generally applies the normal civil standard of proof in determining whether or not a public authority holds information, ie he will decide on the balance of probabilities whether the information is held.
17. As mentioned, for section 40(2) to apply, either the first or second condition in section 40(3) must be satisfied. The first condition in section 40(3) states that disclosure of personal data would contravene any of the data protection principles or section 10 of the DPA.
18. The first data protection principle states:

'Personal data shall be processed fairly and lawfully and, in particular shall not be processed unless – At least one of the conditions in schedule 2 [DPA] is met....'

19. In deciding whether disclosure of personal data would be unfair, and thus breach the first data protection principle, the Commissioner takes into account a range of factors including:

- The reasonable expectations of the individual in terms of what would happen to their personal data,
- The consequences of disclosing the information, ie what damage or distress would the individual suffer if the information was disclosed?

20. Furthermore, notwithstanding the data subject's reasonable expectations or any damage or distress caused to them by disclosure, it may still be fair to disclose the requested information if it can be demonstrated that there is a pressing social need for a disclosure of the information to the public which overrides the expectations of the individual or any detriment that may be caused.

a) Vehicle Registration numbers

21. The vehicle registration details would have been collected by the council as part of the enforcement process. The individuals involved would have had their car seized for contravening parking laws.
22. The Commissioner has considered whether the individuals would have expected details of their vehicles, together with details of parking contravention actions being taken against them being disclosed to the public in response to an FOI request. His decision is that they would not have expected this, and that it would not have been obvious to them.
23. The Commissioner is also satisfied that the individual's loss of privacy through a disclosure of the actions taken against them by the council is a sufficient detriment in this case.
24. He is therefore satisfied that on the face of it a disclosure of the information would be unfair to the individuals for the purposes of the first data protection principle.
25. The Commissioner must therefore consider whether there is a pressing social need for that information to be disclosed. His decision is that there is not. The complainant appears to be seeking the information in order to try to issue a legal challenge to parking enforcement of this kind. However the individuals do not know the complainant and have not

agreed for him to have information about the actions taken against them disclosed. There is no pressing social need for this information to be disclosed.

b) Contact details of a third party

26. The complainant does not know the individual concerned. He has read details of enforcement action which was taken against the individual, and on that basis he has requested contact details in order to contact him, the individual presumably does not know that this is the case.
27. Disclosures under the Act are global in nature. The individuals contact details would be effectively published to the whole world. Some details of his issues with the council have been published by the complainant, however his contact details have not been. The Commissioner is therefore satisfied that he would have no expectation that that information would be disclosed to a third party (or to the whole world) in response to and FOI request.
28. Again the Commissioner has considered whether there is a pressing social need for the information to be disclosed. His decision is that there is not.
29. The Commissioner's decision is therefore that the council was correct to apply Regulation 40(2) to this information.

Right of appeal

30. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

31. 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.
32. 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

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