

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 June 2017

Public Authority: Kirklees Borough Council
Address: Civic Centre 3
Market Street
Huddersfield
JD1 1WG

Decision (including any steps ordered)

1. The complainant made a number of requests to Kirklees Council ("the council") relating to parking services under the Freedom of Information Act 2000 ("the FOIA"). The council provided some recorded information but said that no further information was held. The complainant asked the Commissioner to consider whether the council held any further information. The Commissioner's decision is that no further information was held. She does not require any steps to be taken.

Request and response

Request ref 13153

2. On 23 June 2016, the complainant wrote to the council and requested information in the following terms:

"Please provide all council work orders for roads in the councils administrative jurisdiction between the dates of 3.5.16 and 3.6.16. Please include all line painting and sign erection, replacement and maintenance orders".

3. The council responded on 21 July 2016 and provided information.
4. On 22 July 2016, the complainant requested an internal review and said that he believed more information was held.
5. The council completed its internal review on 10 August 2016. It said that no further information was held.

Request ref 13154

6. On 23 June 2016, the complainant requested information in the following terms:

"Please provide all requisitions for traffic signs and parking signs originating within your parking enforcement and appeals department between 3.5.16 and 3.6.16".

7. The council responded on 18 July 2016. It said that between the dates mentioned it did not acquire or order any new signs. It explained that the new sign on Quay Street was erected around 15 June 2016.
8. The complainant expressed dissatisfaction with the council's response on 20 July 2016.
9. The council completed its internal review on 15 September 2016. It said that no information was held.

Request ref 13155

10. On 23 June 2016, the complainant requested information in the following terms:

"Between 3.5.16 and 10.6.16 a pay and display sign was erected on Quay Street, Huddersfield approximately 12 metres east of its junction

with Watergate. Please provide the decision making process that resulted in the erection of this sign. Please include all emails in relation to this sign and specifically the request that initially commenced the process..."

11. The council responded on 18 July 2016 and said that between the dates mentioned it did not acquire or order any new signs. It explained that the sign on Quay Street was erected around 15 June 2016.
12. The complainant requested an internal review on the same day and said that the council had not provided the information requested. He said that the sign had been erected on 2 June 2016.
13. The council completed its internal review on 10 August 2016. It said that it held no information.

Scope of the case

14. The complainant contacted the Commissioner on 2 December 2016 to complain about the way his requests for information had been handled. He asked the Commissioner to consider whether the council held any further recorded information falling within the scope of his requests.

Reasons for decision

Section 1(1) – General right of access

15. Section 1 of the FOIA provides a general right of access to recorded information held by public authorities. Any person making a request for information to a public authority is entitled to be informed in writing by the public authority within 20 working days whether it holds information of the description specified in the request, and if that is the case, to have that information communicated to him unless a valid reason exists for not doing so under the legislation.
16. 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 was not held and she will consider if the authority is able to explain why the information was not held. For clarity, the Commissioner is not expected to prove categorically

whether the information was held. She is only required to make a judgement on whether the information was held "on the balance of probabilities".¹

17. The background to this matter is that on 3 May 2016 the complainant was parked on Quay Street in Huddersfield. He did not believe that it was a restricted parking area however he was subsequently issued with a Penalty Charge Notice ("PCN"). He made informal representations to the council on the basis that there was no signage indicating that he was parked in a pay and display bay. These initial representations were rejected and the complainant therefore pursued a formal appeal. The complainant said that in the meantime, no later than by 2 June 2016, the council erected a sign at the location and conducted a site visit to take photographs. The complainant then made a number of requests under the FOIA in order to establish the date upon which the council had erected the sign. Following this, the complainant received a letter from the council on 28 June 2016 informing him that the PCN had been rescinded because fresh information had come to light indicating that the council's engineer put up a sign just after the contravention date.
18. The council has explained to the Commissioner that the parking restriction plates of the nature of those on Quay Street contain standard wording. The council maintains a stock of these plates at the Highways depots that officers from Parking Services can access and carry around in their vans. This way, if an officer sees that a sign is missing and they have a spare that meets the requirements of that particular location, they can put it up straight away.
19. The council said that there is no requirement to record when a routine sign has been replaced. The council said that when the stock of plates maintained at the depot falls to a certain level, they are reordered and a record of that order is kept. It said that the routine replacements referred to are different to the replacement of other more bespoke road signs which are not in relation to waiting restrictions and which have to be ordered specifically. This is where a requisition is made. The council explained that it is not efficient to maintain a stock of bespoke road signs but it does make sense to maintain a stock of routine signage. Quay Street has routine signage as it is located in Huddersfield town centre where the majority of parking restrictions are the same.

¹ This approach is supported by the Information Tribunal's findings in Linda Bromley and Others / Environment Agency (31 August 2007) EA/2006/0072

20. With regard to the specific circumstances pertinent to this case, the council said that it believed, at the time of responding to the complainant's requests, that the sign on Quay Street was erected on or around 15 June 2016, although there was no recorded information as evidence of this. However, when the complainant formally appealed against the PCN, the Appeals Officer discovered that the sign had been replaced by another council department just after the date the PCN was issued to the complainant. The council therefore decided to cancel the PCN and it wrote to the complainant accordingly stating:

"...Whilst my colleague acted in good faith...This episode has brought out a couple of issues which the Parking Office will act upon in particular the reiteration of the necessity for good contemporaneous notes (and photographs if available) made to show that a contravention has occurred".

21. The above came about because anecdotal evidence confirmed that the officer responsible for carrying out minor repairs to the parking meters (a Senior Engineer) saw that there was a missing plate and so replaced it from the standard stock in their van. When the engineer was asked if he could recall when he replaced the sign, he said that it was "in the last week or two". From this, the council can surmise that the sign was erected just after the contravention date of 3 May 2016 and before 2 June 2016.
22. The council confirmed that it had conducted appropriate searches for any relevant recorded information and that it had double-checked this following the Commissioner's contact. It said that it had searched its computer works ordering system known as "Mayrise". The council confirmed that there was no order for replacement plates during 3 May 2016 to 3 June 2016. If a bespoke sign is ordered this would be recorded as a separate entry. Similarly, the order to put the sign up or renew the road markings would be recorded as separate entries. This had been checked. The council said it had also checked its customer services system, through which members of the public can log requests for works/defects etc. It had also searched emails from customer services which would contain any records of phone calls from members of the public who use the telephone to make such reports. The council checked with Parking Services and appropriate staff members and also checked records in the handheld devices where all site observations for signs and lines which are deficient would be recorded. The council also confirmed that no information falling within the scope of any of the requests had been deleted, destroyed or mislaid.

23. In view of the above, the Commissioner was satisfied that the council had provided sufficient evidence and argument to demonstrate that on the balance of probabilities, no recorded information beyond that already provided was held by the council. It appears that a misunderstanding arose around when the sign was erected. This has now been remedied and there no longer seems to be a dispute between the parties over when the sign was erected. The remaining question of whether the erection of that sign would have created any paperwork has also now been answered. No paperwork was generated because the sign was replaced as part of routine maintenance. The council has provided a satisfactory explanation for the circumstances and conducted detailed, appropriate searches for paperwork relating to signs and the wider maintenance issues caught by the requests.

Right of appeal

24. 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

25. 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.
26. 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

Elizabeth Archer
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF