

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 April 2015

Public Authority: Lancashire County Council
Address: County Hall
Preston
PR1 8XJ

Decision (including any steps ordered)

1. The complainant has requested the number of Penalty Charge Notices issued to owners/users of vehicles parked at rear Nutter Road, Cleveleys. In addition to the number of Notices, the complainant has also requested the times and days when the Notices were issued.
2. The Commissioner's decision is that Lancashire County Council has properly applied the provisions of section and 31(1)(b) to the information sought by the complainant.
3. The Commissioner does not require the Council to take any further steps in this matter.

Request and response

4. On 24 June 2014, the complainant wrote to Lancashire County Council and requested information in the following terms:

"I would like you to send me (*redacted as necessary)

1. a copy of Traffic Regulation Order (TRO) 235 along with details of the date on which it came into force,
2. proof that the area in which I parked is not private land,

3. the number of PCNs¹ issued and details of dates and times of all PCNs issued to vehicles parked on Rear 9-25 Nutter Road, Thornton Cleveleys since the introduction of TRO 235,
 4. copies or scans* of any informal challenges of PCNs issued in contravention of TRO 235 and copies or scans* of the authority's responses,
 5. copies or scans* of any formal representations received in respect of PCNs issued in contravention of TRO 235 and copies or scans* of the authority's responses,
 6. copies or scans* and any appeals to the independent adjudicator in respect of PCNs issued in contravention of TRO 235 and copies or scans* of the independent adjudicator's decision in each case,
 7. photographs* taken of all vehicles held to be in contravention of TRO 235 and for which PCNs were issued and the times and dates when photographs were taken."
5. The Council responded to the complainant's request on 17 July 2014. It provided him with information relevant to item 1 of the request and advised him that it did not hold the information he seeks at item 2.
 6. The Council informed the complainant that there had been 105 PCNs issued between 23 December 2011 and 25 June 2014, but refused to disclose the dates and times the PCNs were issued in reliance of sections 31(1)(a) and 31(1)(b) of the FOIA.
 7. The Council refused to provide the complainant with the information it holds relevant to items 4, 5, 6 and 7 of his request in reliance of section 12(1) of the FOIA.
 8. The complainant responded to the Council's position in an email dated 17 July. On 25 July he sent the Council a further email in which he complained about its response and its failure to acknowledge his earlier email.
 9. On 25 July the Council informed the complainant that it was looking into issues raised in his email of 17 July and it advised the complainant that it would send its response in due course.
 10. On 6 October the complainant asked the Council if it was still looking into the issues raised in his email of 17 July. The complainant also advised the Council that he was no longer requesting the information

¹ Penalty Charge Notices

relevant to items 1,2, 4, 5, 6, and 7 of his original request. The complainant clarified his request under the following terms:

“only the number of PCNs issued to vehicles parked at rear Nutter Road in the specified area between the yellow lines and the permanent and temporary bollards that mark the boundary of the Home Bargains car park and the times/days when those were issued.”*

11. The Council sent its response to the complainant’s revised request on 19 December 2014. The Council advised the complainant that 114 PCNs had been issued for vehicles parked at the rear of 9-25 Nutter Road between September 2009 and October 2014.
12. Due to the specific nature of the complainant’s request, particularly the specific area identified in his request, the Council determined that his request should be refused in reliance on section 12 of the FOIA and also in reliance on section 31 of the FOIA.

Scope of the case

13. The complainant contacted the Commissioner 10 November 2014 to complain about the way his request for information had been handled. On this date the complainant had not received a response from the Council to his revised request of 6 October.
14. This decision notice is the Commissioner’s determination of whether the Council is entitled to rely on section 31 of the FOIA as reasonable grounds for refusing to provide the withheld information.

Reasons for decision

Section 31 – Law enforcement

15. Section 31(1)(b) provides an exemption from the duty to disclose information where disclosure would, or would likely prejudice the apprehension or prosecution of offenders.
16. The Council has asserted that disclosure of the requested information would prejudice the prevention of and detection of people committing parking offences, and the apprehension or prosecution of those persons committing those offenses.
17. The prejudice would be created by disclosing the requested information – particularly the dates and times when the PCNs were issued, because

the information could be used to establish enforcement patterns. The public would be able to determine the days and times when parking restrictions are likely and/or unlikely to be enforced at the location described by the complainant.

18. The Commissioner has decided to accept that the prejudice identified by the Council would, or would likely arise following disclosure of the requested information and consequently he must accept that section 31(1)(b) is engaged.
19. The Commissioner finds that the information is sufficient in itself to allow the public to determine car parking enforcements at the specified location. Similarly, he cannot ignore the potential for this information to be used alongside other information, in the so-called 'mosaic effect' to map out enforcement patterns over a longer period of time and for a wider area.
20. The Council's reliance on the section 31(1)(b) is subject to consideration of the public interest test.

The public interest

Arguments in favour of disclosing the requested information

21. The Commissioner considers that some weight must always be given to the general principle of achieving accountability and transparency through the disclosure of information held by public authorities. Disclosure of information can assist the public in understanding the bases on which public authorities make their decisions. This in turn can foster trust in public authorities and may allow greater public participation in the decision making process.
22. In this case, disclosure of the requested information would help the public to understand some of the issues considered by the Council in respect of traffic enforcement policy. Disclosure would also allow the public to consider the effectiveness of the traffic enforcement policy and to determine whether enforcement action was undertaken fairly.

Arguments in favour of maintaining the exception

23. The Commissioner considers that parking enforcement measures (Regulations) are generally put in place for the benefit of the public – in particular for the benefit of residents and business in the areas where the measures operate.
24. Parking enforcement measures are usually put in place only after public consultation or where a need for temporary provision has been identified.

25. Parking enforcement measures are generally seen to be beneficial to the public: They reduce congestion; they promote a higher turnover of parking spaces and thereby make parking easier; they create safer streets through a reduction in circulating traffic; they improve access for emergency services; and, they result in fewer obstructions caused by illegally parked vehicles.
26. Parking enforcement measures can result in fines being imposed on those persons who park in restricted areas. Some of the revenue generated by these fines goes into the operation of the enforcement system and the surplus goes into the general public purse.

Balance of the public interest arguments

27. The Commissioner appreciates that there is a general public interest in public authorities being as accountable as possible for the decisions they make in respect of their parking enforcement measures.
28. However, the Commissioner cannot ignore the potential negative impact that disclosure of the requested information could have on the business and residents located within or adjacent to the area defined in the complainant's request.
29. The Commissioner can clearly envisage that a real danger would arise were the public to be able to properly determine the Council's enforcement pattern, whether by virtue of this request or through the potential 'mosaic effect' of this and similar request for information.
30. The Commissioner fears that drivers would decide to disregard the parking regulations if they knew that no enforcement officers would be on patrol at certain times and there would be a reduced likelihood of them being caught. This could clearly lead to greater congestion, more obstructions of the highways and footpaths and greater inconvenience to residents, businesses and pedestrians.
31. Having considered arguments for and against the disclosure of the requested information, the Commissioner has determined that greater weight must be given to those factors which favour its continued withholding. The Commissioner's decided that the Council is entitled to rely on section 31(1)(b) of the FOIA.

Right of appeal

32. 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

33. 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.
34. 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