

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 October 2022

Public Authority: Chief Constable of Thames Valley Police

Address: Headquarters

Oxford Road

Kidlington

OX5 2MX

Decision (including any steps ordered)

1. The complainant requested information relating to the non-compliance and enforcement of 20mph speed zones via Fixed Penalty Notices ("FPNs") in Oxford from Thames Valley Police ("TVP"). TVP provided the complainant with a link which it said contained the requested information.
2. The Commissioner's decision is that TVP has failed to comply with its duties under section 1(1)(a) of FOIA. It has also breached section 10(1) of FOIA.
3. The Commissioner requires TVP to take the following steps to ensure compliance with the legislation.
 - TVP must confirm or deny that it holds the requested information; and
 - If it does hold the information, disclose it, or provide a refusal notice in accordance with its obligations under section 17 of FOIA.
4. TVP must take these steps within 35 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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 22 December 2021, the complainant wrote to TVP and requested information in the following terms:

“The number of Fixed Penalty Notice issued to motorists for exceeding the 20-mph speed limit on roads where this is in force within the City of Oxford. To report this number for each of the last 5 reporting years, with the start and end date of the reporting year to be selected according to whatever is most convenient. If a full 5 years of data are not possible within the budget that can be allocated, we request that the Police report data for the maximum number of years possible.

If reporting of tickets issued within the boundary of the City of Oxford is not possible within the budget, please report the equivalent data for the OX3 and OX4 postcode areas.”

6. TVP responded to the request on 2 February 2022 and provided a link to a website as follows:

“Please see the following link, for speed and other data, that is often published quarterly, within the public domain:

[TVP Hampshire Accident site \(tvphampshiretraffweb.co.uk\)](http://tvphampshiretraffweb.co.uk)”

7. On 3 February 2022 the complainant requested that TVP review its response as follows:

“Thank you for the letter. The website that you refer me to does not provide the information requested. As the website states, it is a geo-referenced log of road traffic collisions.

This cannot be construed as the same as data regarding the number of fixed penalty notices issued for non-compliance with a 20-mph limit (as per my request, which is restated in the letter that you sent me).”

8. TVP provided an internal review on 22 February 2022 in which it maintained its original position and directed the complainant to the website it had already provided. To add to that, TVP stated:

“I have concluded the review and determined that if information is held it would be available on the link previously provided.”

Scope of the case

9. The complainant contacted the Commissioner on 22 February 2022 to complain about TVP's failure to respond to their request.
10. The Commissioner has considered whether TVP has complied with its obligations under sections 1 and 10 of FOIA.

Reasons for decision

11. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

12. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".
13. TVP has provided a link to a website which it states provides "speed and other data" but has not provided an explanation as to how this data could be manipulated to produce the information which has been requested.
14. Following an internal review, TVP provided basic instructions to the complainant on using the search functionality within the site. However, the Commissioner has been unable to use these instructions to locate the specific information that the complainant requested – and is doubtful that it is even possible.
15. The data TVP has signposted the complainant to is data concerning road traffic collisions and the **locations** of speed cameras. However, the complainant's request sought the **numbers** of FPNs that had been issued within a specific geographical area. Even if the complainant were able to use the website to locate all the speed camera locations within the specific geographical area they are interested in, they would still have no way of using the data to deduce the numbers of FPNs that have been issued.
16. The key part of TVP's internal review response is that it said that **if** the information was held, it would be found there. The Commissioner does

not consider that this is sufficient for TVP to discharge its duty under section 1(1)(a) of FOIA.

17. When a public authority receives a request, its first duty is to establish whether it does in fact hold any of the information that has been requested. It should then provide the requestor with an unequivocal statement that the information is, or is not, held – unless it believes an exemption allows it to neither confirm nor deny.
18. Even where a public authority withholds information, it must still confirm whether or not the information is held.
19. From the evidence provided to the Commissioner in this case, it is clear that TVP failed to provide a definitive statement on whether it actually held information within the scope of the request. It is not good enough for TVP to state what its position would be “if” information were held: it must state whether the information **is** held and then explain why it is not providing the information. In failing to do this, TVP failed to comply with its duty under section 1(1)(a) of FOIA.
20. By failing to provide any sort of response within 20 working days, TVP has also breached section 10(1).
21. As TVP has indicated that this information should (if it existed) be publicly available, the Commissioner can see no reason why TVP would need to issue a “neither confirm nor deny” response to this request. He is therefore now requiring TVP to issue an unequivocal confirmation of denial that it holds information on the number of FPNs that would fall within the scope of the request.

Other matters

22. It is not clear from TVP’s responses whether it was claiming to rely on section 21 to withhold information. The Commissioner expresses no view as to whether section 21 would or would not apply in this situation. However, he would note that, in order to apply this exemption, it is not sufficient for a public authority to claim that information “might” be found in a particular place. The public authority must have determined that the information **is** reasonably accessible via those means and it should be able to direct the requestor to the specific information that has been requested.

Right of appeal

23. 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

24. 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.

25. 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

Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF