

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 November 2022

Public Authority: Birmingham City Council

Address: Council House
Victoria Square
Birmingham
B1 1BB

Decision

1. The complainant requested information from Birmingham City Council ("the Council") relating to the percentage of people who paid a penalty charge.
2. The Commissioner's decision is the Council failed to provide an adequate response to the request. Consequently, the Commissioner finds that the Council breached section 1(1) and section 10(1) of the FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a fresh response to the request which is adequate for the purposes of the FOIA.
4. The Council 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. The complainant made the following information request to the Council on 14 March 2022:

"I would like to know the percentage of people who on their first use of the clean air zone, failed to pay the charge online and instead paid the penalty charge. This should be restricted to vehicles which are required to pay a charge and run from the

inception of the CAZ. If the data could be further split into cars registered within [Birmingham] and outside [Birmingham], and commercial vs non commercial vehicles that would be ideal.”

6. The final position of the Council was that it has already provided all the information it holds in the form of a public website link to “brum breathes website”, this website volume of vehicles and charges to the vehicles.

Reasons for decision

7. This reasoning covers whether the Council has complied with its obligations under section 1(1) (general right of access to information) and section 10(1) (time for compliance) of the FOIA.
8. The position of the Council is that it had provided all the information it was able to, but it agreed that it should have “provided more detail as to why it was unable to provide the information as requested.”
9. The complainant considers that the Council has not answered the request and instead simply provided them with broken website links and summary sheets which did not contain the data request. Specifically, the complainant considers the Council simply does not want to fulfil its duties under the FOIA.
10. The Commissioner provided the Council a final opportunity to clarify its position and furnish the Commissioner with the appropriate response to support its stance on the matter, advising it does not hold the information within the scope of the request.
11. The Council was unable to provide sufficient evidence to support its initial arguments, whilst also failing to demonstrate that information within the scope of the request was not held by it. The Council was also unable to respond to the Commissioner’s questions in full.
12. It is therefore the Commissioner’s decision is that the Council has failed to provide the complainant with an adequate response to the request and, therefore, the Council has breached section 1(1) (general right of access to information) and section 10(1) (time for compliance) of the FOIA.
13. The Commissioner requires the Council to provide the complainant with a fresh response to their request which fully answers the questions. The Council should either provide the complainant with the requested information or an adequate refusal notice should be provided.

Right of appeal

14. 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@justice.gov.uk

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

15. 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.
16. 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
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