

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 8 January 2024

**Public Authority:** Brighton and Hove City Council  
**Address:** Hove Town Hall  
Norton Road  
Hove  
BN3 3BQ

#### **Decision (including any steps ordered)**

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1. The complainant has requested information held by Brighton and Hove City Council (the council) relating to bus gates installed at Valley Gardens.
2. The Commissioner's decision is that, on the balance of probabilities, the council has provided the complainant with all the information that is held that is relevant to their request. In addition, where information is already publicly available, the council has provided appropriate links to that information.
3. However, as the council failed to issue a response which provided the information requested by the complainant within 20 working days, the Commissioner has found a breach of section 10 of FOIA.
4. The Commissioner does not require further steps as a result of this decision notice.

## Request and response

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5. On 14 March 2023, the complainant submitted a request for information to the council, setting out eight questions which asked primarily for information held about road signage, penalty charge notices, and communications with satellite navigation (sat nav) companies about the bus gates installed at Valley Gardens.
6. Whilst the council provided some information in response to all eight questions, the complainant originally advised the Commissioner that they were dissatisfied with the council's response to question 7 (Q7). The complainant then recently raised concerns about the council's response to question 2(Q2). The relevant parts of the complainant's request are set out below:

"Q2. Please state which document outlines the statutory requirements for signage and road markings, at Bus Gates like these. Please either supply the document, or an online link to it, and specify exactly which pages and sections are relevant to this matter. If the document covers more than one type of Bus Gate, please specify which type applies in this case....."

Q7. 'In addition to the sign reviews, officers have alerted satellite navigation companies of the restrictions around Valley Gardens, which are now showing on systems such as Google Maps' [the complainant was quoting a statement made by an officer at a council meeting].

Please provide details of these notifications, including dates, content and destined recipients.

Or, if no record can be found of these notifications, then please confirm if this is the case."

7. On 2 May 2023, the council provided the complainant with some information in response to their request. With regard to Q2, the council advised that it considered section 21 to apply, as the information was already publicly available. The council went on to provide a website link to that information it regarded to be relevant to this part of the request.
8. In response to Q7, the council stated that:  
"this was done via online records, there is no record."
9. The complainant requested an internal review, and on 23 May 2023, the council provided its response. With regard to Q2, the council now provided a link to a further document, "[Traffic Signs Manual, Chapter 3](#)"

(the Manual); the council also copied within its response certain extracts taken from the Manual that related to bus gates.

10. With regard to Q7, the council advised that whilst its Network Management Team does not hold details of notifications made to sat nav companies, it was aware that a council officer did notify Google Maps of the relevant restrictions at the Valley Gardens bus gates using the online 'report a problem' feature provided by Google Maps.
11. Following the internal review, the complainant contacted the council again to say that they remained dissatisfied with the responses that they had received to Q1 and Q7 of their request. After further communications were sent between the parties about these two questions, on 16 August 2023, the complainant then advised the council that they considered one point to remain outstanding. This related to Q7, and the complainant stated that they still required the following information:

"On what date(s) did the Highways Dept notify Google Maps (or any other Sat Nav companies) of the new bus gates in Valley Gardens?"
12. On 21 August 2023, the council confirmed that the contact form relevant to Q7 of the complainant's request was completed in January 2022.

### **Scope of the case**

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13. The complainant initially raised concerns with the Commissioner about the council's handling of Q7 of their request, and also the timeliness and quality of the responses that they had received. The complainant has recently raised concerns about the council's response to Q2 of their request.
14. The complainant said that there were discrepancies within the responses that have been provided by the council in response to both Q2 and Q7, and they have questioned whether some of the information provided is an accurate reflection of what is held, and also whether additional information should have been provided.
15. The Commissioner will consider whether the information that has been provided in response to Q2 and Q7 of the complainant's request is an accurate reflection of the information that is held. He will also decide whether, on the balance of probabilities, the council holds any additional information that is relevant to these two parts of the request.
16. The Commissioner will also consider certain procedural matters, as requested by the complainant.

## Reasons for decision

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17. When a public authority receives a request under FOIA, its obligation under section 1(1) of FOIA is to provide the information that it holds in recorded form. It is not obliged to create or acquire information in order to satisfy a request.
18. The complainant has raised concerns about the council's responses to Q2 and Q7 of their request. They believe that the information and explanations given by the council may not provide an accurate reflection of the information that is held, and that there may be additional information which could be provided in response to these parts of their request.
19. In the council's internal review response, it provided the complainant with a link to the Manual published by the Department for Transport, which it said that it considered to be relevant to Q2 of the request. The Manual sets out details of certain traffic statute, and provides advice to traffic authorities on the use of traffic signs and road markings. Section 9.7 of the Manual sets out the requirements for bus-only streets and bus gates, and the council made specific reference to sections 9.7.2 to 9.7.4, and included copies of certain illustrations taken from the Manual, in its internal review response to the complainant.
20. The complainant had indicated to the council that the link provided to the Manual now finally answered Q2; however, the complainant has recently advised the Commissioner that, upon further review, they consider that this is not the case.
21. The council's internal review response had included an illustration from the Manual which sets out an example layout of a two-way bus gate. However, the complainant states that they do not consider the bus gate at Valley Gardens to be a two-way bus gate; therefore, they argue that the council was wrong to have provided this information, and should now provide the correct information held.
22. However, it is not for the Commissioner to decide on the type of bus gate that the council has said it considers to be in operation, or the adequacy of road signage. There are other more appropriate mechanisms in place in which to pursue such concerns.
23. Having considered all of the information available, it is the Commissioner's view that the council has provided the complainant with a link to information (section 9.7 of the Manual) which provides an appropriate answer to Q2 of their request. If the complainant disputes the type of bus gate that the council has said is in operation, then this is a matter that they would need to raise separately.

24. With regard to Q7 of the complainant's request, the council has confirmed to the Commissioner that it does not hold the information that has been requested in a recorded format.
25. The council has said that an officer recalls being informed that Google Maps was showing incorrect information about the signage at the bus gates at Valley Gardens. The officer then sent the correct information using the online feedback section provided by Google Maps. The council has said that whilst the relevant officer recalls submitting the online form, they do not recall receiving any response from Google Maps acknowledging receipt. The council accepts that there is a possibility that a receipt may have been received from Google Maps and subsequently deleted by the council, or alternatively, that the online report which the officer submitted was not the reason for the Google Maps update.
26. The council has gone on to say that a follow up check on Google Maps confirmed that the relevant changes were made, and no other communications were sent to Google Maps about the issue. The council has said that whilst its legal obligation is to make sure that the signage that it has in place is correct and clear, it is not required to make sure that Google Maps is an accurate system. However, the council says that where possible, it will provide updated information, if it is told that something is incorrect.
27. The council has confirmed that although it advised the complainant that a council officer submitted the contact form to Google Maps in January 2022, it cannot confirm with absolute certainty that this was the correct date. The council says that this is because it does not hold any recorded information about the submission of the online form and that the date provided was "in effect, a best guess", which was provided in order to assist the complainant with their questions.
28. It is the Commissioner's view that the council should have been clearer that the information provided to the complainant about the month that the online form was sent to Google Maps was based on officer's recall, and that no recorded information which confirms the date was actually held.
29. Having considered all of the information available, the Commissioner is satisfied that, on the balance of probabilities, the council does not hold any recorded information that is relevant to Q7 of the complainant's request.

## **Procedural matters**

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30. The complainant has raised concerns about the timeliness of the council's responses to their request.
31. The council failed to provide the information it held that was relevant to the request, and also a link to that information which was already publicly available, within 20 working days. As a result, the Commissioner has found a breach of section 10 of FOIA.
32. The Commissioner has already noted that the council could have been clearer in its responses about where additional information it was providing in order to assist the complainant was not held in a recorded format. However, the Commissioner does not consider this, or the content and quality of the responses to the request, to be evidence of a broader issue of poor practice, as has been claimed by the complainant.
33. However, the Commissioner will record the delay in the council's response to the complainant's request for monitoring purposes.

## Right of appeal

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34. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

35. 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.
36. 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 .....**

**Suzanne McKay**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**