

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 February 2016

Public Authority: Bristol City Council

Address: City Hall (formerly The Council House)
College Green
Bristol
BS1 5TR

Decision (including any steps ordered)

1. The complainant has requested a breakdown of cost information with regards to pay and display machines. Bristol City Council (the council) advised that it does not record the information in a way which would provide the complainant with the information he requires and therefore does not hold the requested information.
2. The Commissioner's decision is that the council does not hold the requested information. The Commissioner has also found that the council has breached section 10(1) of the FOIA as it did not respond to the complainant's request within the required 20 working days from receipt of it.
3. As the council has now responded and it has been determined the requested information is not held, the Commissioner does not require the council to take any steps.

Request and response

4. On 17 July 2015, the complainant requested the following information from the council:

"It has recently been reported that costs to damaged pay&display machines in the Montpelier scheme have exceeded £30,000 to repair machines or repaint yellow lines painted over etc.

Can you please provide a global figure for all the Resident Parking zones for vandalism, damage to markings, machinery.

Can you please provide a breakdown of the costs for vandalism, damage (with breakdown of specific types of vandalism, p&d machines, repainting yellow lines etc) in each operational RPZone in Bristol, detailed and listed per Zone.

Can you please provide a breakdown of costs for correction of mistakes per Zone - i.e. in Clifton East a p&d machine was re-sited outside of the ballet school, in Easton a machine was put right in the middle of pavement causing an obstruction instead of being up against back edge of the pavement, yellow lines that had not been requested having to be removed, white lines having to be repainted because they were sited incorrectly etc etc...

There are several incidences of roads being resurfaced where RPZ markings have not that long ago been installed (for example on Cotham Brow) - can you please provide the cost by zone of the repainting of markings where they have been covered up by resurfacing and provide the timescales between when the RPZ markings were put down and the road then being resurfaced?"

5. The complainant contacted the council on the 24 August 2015 and again on the 1 September 2015 to advise that he had not received a response to his request.
6. The council then responded on the 1 September 2015. It advised that the information is not held for each part of the request. At the end of the response the council also stated that it would take over the appropriate limit of 18 hours in order to respond to the final part of the request citing regulation 5(2)(b) of the Freedom of Information and Data Protection (appropriate Limit and Fees) Regulations 2004. It appeared to be relying on section 12 of the FOIA to refuse this information.
7. The complainant contacted the Commissioner on the same day as the response to advise he was not satisfied with it. The Commissioner advised the complainant that it requires copies of the internal review request and the internal review response before being able to consider the case further.
8. The complainant provided this further information showing that he requested an internal review on the 4 September 2015. He considered that the council should be able to provide the figures requested.

9. The council provided its internal review on the 21 September 2015. Its response was that the information was not held because it does not record the information in the way that the complainant requested it. It appeared to no longer be looking to rely on section 12 of the FOIA to refuse any part of the request.

Scope of the case

10. The complainant contacted the Commissioner again to advise that he was not satisfied with its response.
11. Following contact with the council, it has clarified to the Commissioner that it is not relying on section 12 of the FOIA to refuse any part of the request, but it is unable to provide the information as it has not been recorded as requested.
12. The Commissioner therefore considers the scope of the case is to determine whether or not the council holds the information requested. He will then determine whether or not the council breached section 10(1) of the FOIA due to the time it took to respond to the request.

Reasons for decision

Section 1 of the FOIA – Information held/ not held

13. Section 1 of FOIA states that a person making a request for information to a public authority is entitled to be informed in writing by that public authority whether it holds the information within the scope of the request, and if so, to have that information communicated to him.
14. Where there is a dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of the balance of probabilities.
15. Therefore the Commissioner must decide whether, on the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
16. The Commissioner asked the council to explain why it would not hold the information requested and what tasks it undertook, such as searches carried out to, determine this.

17. The council has firstly explained to the Commissioner that the £30,000 mentioned in the complainant's request and reported by the Bristol Post was a non-typical case. This was in reference to a spate of vandalism over a short period in a specific local area and it was an estimate by officers based on a known number of vandalised signs and recently installed ticket machines using unit costs for replacement. The council has told the Commissioner that these costs are not something which is recorded as part of regular maintenance.
18. Turning to the information requested, the council has advised the Commissioner that it contacted officers in its Parking Services in order to establish if the information was held. From this it has established that Parking Services do not currently keep a separate account of money spent specifically on repairs to machines as a result of vandalism.
19. It has explained to the Commissioner that its parking services maintenance engineers do not keep bespoke lists of incidents of vandalism, but its officers do record daily maintenance visits to the machines which would include incidents of vandalism, but these are handwritten sheets that contain the machine name and number, the fault reported, the outcome and the time and date visited.
20. It further adds that these records do not record the time spent on each fault or whether any supplies or materials or spare parts were used to remedy the fault. These records represent a daily work log for the engineers rather than a service history for the machines.
21. The council considered whether its purchase orders for materials and spare parts could be used to provide the requested information but found that it would not be possible to identify from an order or invoice which supplies were required due to vandalism and which were required due to general maintenance. Also it would not have been able to distinguish which supplies were used in which areas.
22. The cost of maintaining the related equipment is not recorded separately from the costs of other highway infrastructure maintenance in these areas. Furthermore, the causes of the maintenance and costs are not recorded, so it is not possible to disaggregate the costs due to vandalism from other causes, such as wear and tear, traffic incidents or theft from the machines.
23. Also, the council has explained to the Commissioner that the recorded maintenance costs are not subdivided by area, so it would not be possible to provide the breakdown of maintenance costs by area.

24. The council has also considered its records of faults reported to the council. These are either self-reported by the machines themselves or faults reported by its officers or the public.
25. With the machines self-reporting faults the council has told the Commissioner that the machines can only issue a generic failure such as having no power, no tickets, or a coin jam etc. It is not possible for it to be able to report whether the fault is a result of vandalism or not.
26. Faults reported by staff or members of the public are recorded to a spreadsheet and are searchable but they would not reflect the total number of faults and may also not record the reason for the fault. The council sees that in theory, it may be able to cross reference the incoming report of the fault with a corresponding record of engineers work logs, but this would mean cross referencing thousands of entries in an attempt to collate a list of vandalism incidents. However, the council points out that this would still not provide the required cost of works – because as previously explained, the engineers work logs do not record costs.
27. It has also told the Commissioner that there are no statutory requirements or business purposes for the council to record the information in the requested way.
28. The Commissioner understands why the complainant considers that the council should be able to provide the information as requested, when considering it provided the £30,000 costs for the area mentioned in his request. But as the council has explained, this was an estimate by officers based on a known number of vandalised signs and recently installed ticket machines using unit costs for replacement.
29. On review of the council's explanations above, although it does record work logs, reported incidents and general orders and invoices for materials, it does not appear to record the information in a way that would enable it to provide a breakdown as requested, such as identifying separate areas or distinguishing repairs due to general faults or vandalism.
30. With this, the Commissioner is satisfied that on the balance of probabilities, the council does not hold the requested information.

Section 10(1) of the FOIA

31. Section 10(1) of the FOIA requires a public authority to comply with section 1(1) of the FOIA within 20 working days of receipt of a request.
32. Section 1(1) of the FOIA requires a public authority to confirm whether or not it holds the requested information.

33. The complainant made his request on the 17 July 2015 and the council did not provide a response until 1 September 2015. This is outside the required 20 working days and so the Commissioner finds the council has breached section 10(1) of the FOIA.
34. As the council has now responded, the Commissioner does not require it to take any steps.

Right of appeal

35. 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

36. 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.
37. 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
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