

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

### **Decision notice**

**Date:** 24 April 2019

**Public Authority:** London Borough of Barking & Dagenham

**Address:** Barking Town Hall  
1 Town Hall  
Town Square  
Barking  
IG11 7LU

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

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1. The complainant requested information about the fines issued at a particular box junction.
2. The Commissioner's decision is that the London Borough of Barking & Dagenham ("the London Borough") failed to obtain adequate clarification of the request. She therefore finds that the London Borough breached section 16 of the FOIA in the way that it handled this request.
3. The Commissioner requires the London Borough to take the following steps to ensure compliance with the legislation.
  - Contact the complainant to seek clarification of the parameters of the information which he is seeking so that it can process the request.
4. The London Borough 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 the FOIA and may be dealt with as a contempt of court.

## Background

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5. In 2017, the London Borough began using a camera to identify contraventions relating to a yellow box junction ("the junction"). Vehicle Registration Marks of vehicles contravening the box would be sent to the Driver & Vehicle Licensing Agency, which would provide details of the Registered Keeper of the vehicle. The Registered Keeper would then be issued with a Penalty Charge Notice ("PCN"). This process can take several days to complete.
6. In April 2018, the complainant made a formal complaint to the Council about the operation of the phasing of the traffic lights at the junction. During the course of corresponding about this particular complaint, the Council disclosed two figures, which it said represented the total amount of PCNs issued and the amount of revenue gained from PCNs issued at the junction.

## Request and response

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7. On 9 May 2018, the complainant wrote to the London Borough and referring to the junction, requested information in the following terms:  
*"Please provide information pertaining to:*  
*a) daily collection of revenue*  
*b) total revenue collected to date, from drivers of vehicles stopped in the junction box."*
8. Following a request from the London Borough, the complainant clarified the request on the same day, setting the time parameters as beginning on the date at which the camera had first begun operating and ending with the date of the request.
9. The London Borough responded on 5 June 2018. It provided some information.
10. The complainant wrote back to the London Borough on the same day. He pointed out that the data with which he had been provided did not sum to the same figures as had been provided to him as part of his original complaint. Following an internal review the London Borough admitted that *"it would appear when running the report for your FOI a number of rows were omitted."* It offered to re-run the report but noted that, even if it did so, the figures would not match up.

## Scope of the case

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11. The complainant contacted the Commissioner on 31 August 2018 to complain about the way his request for information had been handled. In particular, he was concerned that the data set he had been provided with in response to his request did not sum to the same totals as had earlier been provided. He was also concerned at the London Borough's apparent inability to reproduce the same information.
12. The Commissioner made clear that she was not going to consider the *accuracy* of the information which had been provided, but that she would consider whether the London Borough had handled the request correctly.
13. The following analysis covers whether the London Borough handled the request appropriately, including whether it read the request correctly.

## Reasons for decision

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### Sections 1 and 16

14. Section 1(3) of the FOIA provides that a public authority can revert to the requester for clarification where this is necessary in order to identify and locate the requested information. As covered in the Commissioner's published guidance on interpreting and clarifying requests<sup>1</sup>, where a public authority receives a request which is unclear or ambiguous, or which has more than one objective reading, its duty under section 16 to provide advice and assistance is triggered and it must help the requester to clarify the request.
15. The London Borough explained that, whilst superficially straightforward, the way that it records information is such that the complainant's request could be answered in various different ways.
16. For example, it noted that the revenue collected would be stored against both the date at which the contravention occurred, the date on which the PCN was issued and the date on which the fine was paid. Depending on how the report was run would alter what the daily totals were. It also noted that, the further the date the report was run from the requested

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<sup>1</sup> <https://ico.org.uk/media/1162/interpreting-and-clarifying-a-request-foia-eir-guidance.pdf>

time parameters, the higher the total amount of revenue collected would be.

17. The Commissioner agrees that the request could be interpreted in more than one way, but the London Borough's responses to her queries demonstrated that it did not understand which way the complainant wanted the request to be interpreted. The London Borough appeared unable to determine which parameters had been used when producing either the earlier totals or the later daily figures but its best guess was that the two reports had been run using different parameters and hence had produced differing information.
18. Section 16 of the FOIA states that:

*"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it."*
19. In the Commissioner's view, given the differences in recording information described above, the London Borough should have identified that more than one objective reading of the request was possible and contacted the complainant to seek clarification on the information he was requesting.
20. As the London Borough did not apply section 1(3) of the FOIA and revert to the complainant to seek clarification of the request, it failed to discharge its section 16 duty to advise and assist. It thus breached section 16 of the FOIA and at paragraph 3 above it is now required to contact the complainant to seek the required clarification.

## Right of appeal

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21. 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](mailto:GRC@hmcts.gsi.gov.uk)

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

22. 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.
23. 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 .....**

**Ben Tomes**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**