

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2020

Public Authority: Doncaster Metropolitan Borough Council

Address: Civic Office
Waterdale
Doncaster
South Yorkshire
DN1 3BU

Decision (including any steps ordered)

1. The complainant has requested information regarding CCTV locations in relation to properties.
2. The Commissioner's decision is that, on the balance of probabilities, Doncaster Metropolitan Borough Council has provided all the information held within the scope of the request. However, the council responded outside of statutory timescales and therefore breached section 10(1) of the FOIA.
3. The Commissioner does not require any steps.

Request and response

4. On 14 April 2020 the complainant wrote to Doncaster Metropolitan Council ('the council') and requested information in the following terms:

"I wish to request the following information under the Freedom Of Information Act 2000:

The location of all of the overt CCTV cameras operated, owned and/or maintained by DMBC as of today, Tuesday 14 April 2020, up to and including the date my FOI request is responded to in full. The location must include both the Eastings and Northings in DMS format along the camera's relation to the nearest adjacent and clearly identifiable property, building or point of interest's full postal address including postcode, for example, 'camera Alpha zero one located on Thorne Road outside 2 Rectory Gardens Doncaster DN1 2JU'."

5. The council responded on 24 June 2020. It refused to provide the requested information on the basis of the exemption at section 12 (cost of compliance exceeds the appropriate limit). It also advised that it could however provide a list of all cameras situated around the borough, containing location information but not details of nearby properties.
6. The complainant requested an internal review on 14 July 2020, and also requested the alternative information that had been offered: *"In the meantime, I am happy for you to furnish me with a list of all cameras situated around the borough which does give their location."*
7. Following an internal review, the council wrote to the complainant on 11 August 2020. It stated that it had revised its position as the council does not hold the requested information. The council provided a file named *CCTV Cameras.xlsx* and the following explanation:

"Having looked into this further I can confirm that the council hold a list of camera locations which is attached but we do not hold information about adjacent properties. We would have to create that information by looking at external information such as google maps in order to respond to your request. We therefore cannot provide the information but are relying on the fact that it is not held as our reason for refusing to supply the information."

Scope of the case

8. The complainant initially contacted the Commissioner 14 May 2020 to complain that the council had not responded to the request. Then again on 18 July 2020 because the council had not responded to an internal review request nor provided the alternative information. On 24 August 2020, following the internal review the complainant advised that they remained dissatisfied with the way the request for information had been handled and the council's refusal to provide the requested information.
9. The Commissioner considers the scope of the case is to consider whether, on the balance of probabilities, the council holds the requested information. Furthermore, she will consider whether any procedural breaches arose in the handling of the request.

Reasons for decision

Section 1 general right of access

10. Section 1 of the 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."

11. In scenarios such as this one, where there is some dispute between the public authority and the complainant about the amount of information that 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.
12. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
13. In deciding where the balance of probabilities lies, the Commissioner will consider the complainant's evidence and arguments. She will also consider the searches carried out by the council and other information or explanation offered by the council which is relevant to her determination.

14. In this case the complainant has not provided evidence that the council holds the requested information. Rather they wish to understand the basis upon which the council has refused to provide the information.

The council's response

15. The council advised that during the internal review investigation it became apparent that the cost limit referred to in the original response was based upon the CCTV team collating the information from external sources, if such sources existed. Externally held information is not information held by the council, therefore the response was changed.
16. The council advised that the information it holds is a list of all cameras situated around the borough giving their location, however it does not list nearby properties. The list of the cameras and their location is the information provided to the complainant with the internal review outcome.
17. The council advised that searches for information were carried out by the CCTV team, which is the only department where such information would be held. The team's information is all held electronically on the network drive, and no information would be stored on individual personal computers.
18. The council stated that information falling in scope of the request would only be held by the CCTV team, who are responsible for the operation and monitoring of the CCTV systems. It explained that the use of CCTV cameras is closely monitored and restricted, therefore the officer conducting the search would be aware of any information held regarding the location of CCTV cameras.
19. The council confirmed that information in scope of the request had not been deleted at any time. It re-iterated that the information requested has never been held by the council.
20. The council explained that it has no business purpose for the requested information, being more detailed than the information necessary for the control of the CCTV asset register locations.
21. The council confirmed that there are no statutory requirements to hold the information to the level of detail requested.
22. The council further explained that the CCTV asset register provides the location of each CCTV camera, and this is sufficient to trace CCTV assets. The council does not need to record which properties, if any, are situated next to the cameras as this does not affect the operation of the cameras or the residencies nearby. If there was an occasion or incident that potentially could affect residents near the camera locations, if

required, a one-off online search or visit to the camera location would be undertaken to determine any surrounding properties.

Conclusion

23. The complainant was uncertain of the basis of the refusal notice from the council due to the earlier reliance on section 12. The Commissioner considers that the council have now provided sufficient explanation regarding the change of response made at the internal review stage.
24. The original request response, providing a refusal based on section 12 is therefore superseded. As such the Commissioner will proceed to make a judgement on whether the information is held, on the civil standard of the balance of probabilities.
25. The Commissioner considers that a public authority will hold information if it holds the building blocks required to generate it and no complex judgement is required to produce it. Furthermore that information that is available to a public authority online will only be held by that public authority if it has downloaded, or printed it off.
26. Therefore, in regard to this request, there is no requirement on the council to seek out information from external resources in order to respond.
27. The Commissioner considers that the council has adequately explained that it has no business need to hold information regarding which properties are near the CCTV cameras. Furthermore, if such information was ever required, it would be for a specific incident or occasion rather than being routinely downloaded.
28. The Commissioner is satisfied that the council has undertaken sufficient searches to identify any other information in scope of the request, and it has confirmed that no information was deleted or destroyed.
29. The FOIA is limited to giving the public the right of access to information that is held by a public authority. The Commissioner considers that the council have provided a clear and reasonable explanation regarding why the request covers information beyond that required for it to manage its CCTV assets.
30. Having considered the council's responses, and in the absence of any evidence to the contrary, the Commissioner is satisfied that, on the balance of probabilities, the council does not hold any further information within the scope of the requests.
31. The Commissioner therefore considers that the council complied with its obligations under section 1(1) of the FOIA.

Section 10(1) of the FOIA – Time for compliance with request

32. Section 10 (1) of the FOIA states that a public authority must respond to a request promptly and *“no later than the twentieth working day following receipt”*.
33. The complainant made the request for information on 14 April 2020. The council gave a response on 24 June 2020 and refused the information on the basis of section 12.
34. The council revised its position in the internal review on 11 August 2020 to state that the information is not held.
35. The request was made on 14 April 2020, the final response was provided on 11 August 2020 which is nearly four months later. The Commissioner therefore finds that the council has breached section 10(1) of the FOIA by failing to respond to the request within 20 working days. However, as the response was issued no steps are required.

Right of appeal

36. 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

37. 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.
38. 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
Head of FoI Casework and Appeals
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF