

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 October 2023

Public Authority: Staffordshire County Council
Address: 1 Staffordshire Place
Stafford
ST16 2DH

Decision (including any steps ordered)

1. The complainant has requested information from Staffordshire County Council ('the council') relating to a Park Run vehicle and related information. The council provided some information but stated that it did not hold some of the requested information. The complainant disputed this position.
2. The Commissioner's decision is that, on the balance of probabilities, the council does not hold further information falling within scope of the request than has already been provided. However, the Commissioner finds the council in breach of section 1(1)(b) and section 10(1) of FOIA by not providing information to which the complainant was entitled within 20 working days.
3. The Commissioner does not require further steps.

Request and response

4. On 5 May 2023, the complainant wrote to the council and requested information in the following terms:

"Please provide any documents, including emails, held relating to the following issues:

Is BX59 SKO a Staffordshire County Council vehicle?

What speed are vehicles used by Cannock Chase Parkrun required to keep to when being driven within the council's country park?

Does this differ for emergency situations?

What training is required to drive vehicles off-road in Staffordshire country park, away from areas with public vehicular access?

Is any additional training required for driving at high speed or in close proximity to pedestrians when responding to an emergency.

How many complaints have been received about the use of motor vehicles in the park by Cannock Chase Parkrun?

Please provide details of the complaints, minus any personal details.

What risk assessment has been undertaken for allowing the use of motor vehicles by Cannock Chase Parkrun, including as medical emergency response vehicles? (Please provide a copy of any risk assessments held)."

5. The council responded on 7 June 2023 and provided some information.
6. On the same day the complainant asked for an internal review. They stated that the council had not responded to the risk assessment part of the request or what training had been provided, for example, driving at increased speed or in close proximity to pedestrians, just a statement that training is provided. The complainant also queried the statement that the council made about the number of complaints it had received.
7. The council sent its internal review to the complainant on 18 July 2023. The review apologised for the fact that the original response had not included the recorded information held and attached it to the review with redactions made for third party personal information. The information was provided to the council by Parkrun. The council said that it only held information about one complaint which was confirmed by both the "Complaints Team Leader and the Head Environment and Countryside".
8. The review also stated that in the absence of the responsible staff, it had "not been able to locate written evidence of the content of the

training provided on the use of the Mule vehicle or evidence that training has been provided to Parkrun in the use of the vehicle...”

Scope of the case

9. The complainant contacted the Commissioner on the same day as the review to complain about the way their request for information had been handled.
10. They disputed that only one complaint had been received. The complainant also questioned whether they had been provided with information that the council said it held relating to training in the use of the Mule vehicle because it could not be located in the absence of certain staff.
11. After the Commissioner had received the council’s submission, he gave his initial view to the complainant that no further information was held but the complainant did not accept this view.
12. The Commissioner considers that the scope of his investigation is to decide whether the complainant has been provided with all the information to which they are entitled.

Reasons for decision

Section 1 – general right of access to information held by public authorities

13. Section 1(1) of 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.”

14. In cases where there is a dispute over the amount of information held, the Commissioner applies the civil test of the balance of probabilities in making his determination. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held (and, if so, whether all of the information held has

been provided). The Commissioner is not expected to prove categorically whether the information is held.

15. The Commissioner asked the council to look again at the request and provide submissions to him about the searches it had undertaken in relation to the information request.

The council's view

16. The council explained to the Commissioner that detailed searches had been carried out by its officers. These searches spanned both electronic records and hardcopy records, with the resultant information having been previously disclosed to the complainant.
17. The council explained that its Access to Information Team processes information requests but does not have direct access to services' record-keeping systems or information that they contain. Requests are forwarded to services that are likely to hold the information requested.
18. In the case of this request certain services were asked to provide information if they held any that was relevant to the request. The following teams were asked to do so:

- “• The corporate Complaints team and Customer Services/Contact Centre were asked for records of any complaints about Parkrun event(s) held on Cannock Chase.

- The Environment and Countryside Service were asked for records held including:

- o Any contract/agreement between Staffordshire County Council and Parkrun permitting the use of the Cannock Chase site to hold Parkrun events

- o Records of training for use of the council's Mule vehicle

- o Copies of risk assessments

- o Records of complaints relating to the use of the Mule vehicle by Parkrun...”

19. Services conducted further searches and confirmed that no further records of complaints were held (other than one). The following documents were sent to the complainant as part of the internal review response:

- “Permission letter granting Parkrun permission to use the Cannock

Chase site for their events (September 2016)

- o Risk assessments
- o Emergency actions document for Parkrun Marshalls
- o Junior Parkrun Child Safeguarding Policy".

The documents listed were produced by Parkrun.

20. The Head of Environment and Countryside confirmed that any training records relating to the use of the Mule vehicle could not be located. As regards more specific details regarding the Mule vehicle training records, the council detailed the following:

"• We have been told that anyone holding a full UK driving licence is qualified to drive the Mule vehicle and that any 'training' may therefore have been limited to familiarisation with the vehicle.

- If information were held it is most likely to have been recorded in digital format.

- Searches were carried out for electronic records in shared file drives used by Environment and Countryside staff using the additional search terms – Mule, ATV and training.

- The service has re-run the above searches to ensure nothing was missed and has confirmed that no relevant training records have been located for use of the Mule by Parkrun."

21. The council added that there are no statutory requirements to keep records of training but there would be a business expectation that any record would be kept. The service has been reorganised since Parkrun started holding events on the relevant site but interviews with council staff "suggests that training records were not created/held". The council states that, "there is no evidence to suggest that records were created/held and subsequently deleted".

22. In his initial view, the Commissioner did not provide the complainant with every detail of the searches that had been carried out by the council. However, in its response regarding customer services/contact centre/reception teams the council explained the process they use and that no postal correspondence or telephone calls had been recorded relating to this matter. Customer services forward emails to the relevant service area. There is no "centralised CRM system through which contacts and actions are recorded". Shared filing folders have been "searched, checked and re-checked" using search terms/combinations of

search terms – “Cannock/Cannock Chase/Chase”. Any such record would be saved to the team’s filing folder records for “about a year” then deleted. At the time of the search any information relevant to the incident would have been likely to be held because the records date back to April 2022. Checks did not locate any recorded information by these teams of any complaint. There are no statutory requirements to hold information of this type and limited business need to do so. Once transferred to the relevant service, the information becomes the responsibility of that service and their processes.

23. The corporate complaint system is not a statutory requirement but records are kept for six years for business purposes. Complainants can appeal to the Local Government Ombudsman and therefore there is a need to retain records. No records have been deleted and, if this had been done “from one recordkeeping system in error they would still be available in the others”. There has only been one complaint made.
24. Any records held by the Environment and Countryside Service would be likely to be digital. Searches using the terms “Parkrun, Park run and complaint” were run and rerun. There were no complaints recorded in the visitor centre comments book. The Health and Safety reporting system has no incidents or complaints recorded.

The complainant’s view

25. As explained earlier in this decision notice, the Commissioner outlined the council’s response to the complainant. The complainant argued that the Commissioner had failed to take account of the fact that the council had stated in its response to their request that there had been training. From this, the complainant takes the view that “it can be reasonably inferred it was related to information the council held”. They do not accept the council’s position that it was “never created” as this is a “contradiction”. Either the council “gave an untruthful initial response” or it gave a truthful response and the information has been subsequently deleted. The complainant’s view is that the Commissioner has accepted that the council has “conducted diligent searches” with no evidence.
26. The complainant did not accept that there had only been one complaint as they were aware that there had been more than one.

The Commissioner’s view

27. The Commissioner accepts that the council initially stated that “Training is provided in safe use of the equipment by trained countryside staff”. However, this statement came after saying that, “The Parkrun course is mostly on well-surfaced path / track so there is no specific training for parkrun volunteers in relation to this area.” The response to the FOI

request is quite generic but further searching has not located any information regarding training.

28. The council has provided the Commissioner with a detailed breakdown regarding the searches made by the above teams and no relevant information was located. It is the Commissioner's understanding that verbal complaints had been made and passed on to a member of staff but that these were not recorded. The Commissioner explained to the complainant that any verbal complaints made and not recorded could not be considered under the FOIA as the legislation only applies to recorded information. Therefore, although the complainant may be correct about there being other complaints, this is irrelevant for FOIA purposes.
29. The complainant may consider that records should have been kept but this is beyond the Commissioner's regulatory role. If on the balance of probability information is not held, it is not within his remit to consider whether it should be held.

Procedural matters

30. Section 1(1) of FOIA is set out in paragraph 13.
31. Section 10(1) of FOIA states that:

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."
32. The council breached section 1(1)(b) by providing information to which the complainant was entitled at the time of the internal review, which was beyond the statutory timeframe of 20 working days. The council also breached section 10(1) of FOIA because it should have communicated the information within the statutory time for compliance.

Right of appeal

33. 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

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

34. 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.
35. 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

Janine Gregory
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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