

Your ref:
My ref: ML/MB36725



By Email:

request-261503-8f60e655@whatdotheyknow.com

3 February 2017

Meena Lekhi
Solicitor

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www.warwickshire.gov.uk/wls

Dear Mr Whittaker

RE: INFORMATION REQUEST (REF. 515228)

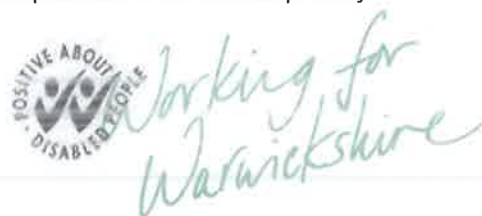
I am writing in connection with the above mentioned information request and the Information Commissioner's decision notice in this matter (ref. FER0603820).

Although the Council has since complied with the Commissioner's decision, and disclosed the previously withheld information to you under cover of its email dated 4 November 2016, you were disappointed with the Council's choice of licence. The Council chose to make the information available to you under the Non-Commercial Government Licence and not the Open Government Licence as you had requested. In your email reply of even date, you indicated that if the Council was not prepared to alter its position that you would be forced to make a complaint pursuant to regulation 17 of the Re-Use of Public Sector Information Regulations 2015 (ROPSI).

Your comments regarding the licence were passed onto the Council's Legal Service for consideration. On 22 November 2015, you formally asked the Council to review its choice of licence pursuant to ROPSI stating that the Non-Commercial 'restriction' presents an unnecessary restriction on the way in which the information can be re-use and that it also unnecessarily restricts competition. You emailed the Council on 28 January 2017 as you had not received the Council's substantive reply to your complaint.

In the first instance, I am very sorry for the delay in writing to you and any inconvenience this may have caused. As you may know, under ROPSI any complaints must be determined within a "reasonable time" and the requester should be notified of the public sector body's determination without "delay". The Council strives to ensure that it deals with any complaints and requests for an internal review in a prompt and timely manner and in accordance within any applicable statutory timescales. Unfortunately, we have been experiencing a high volume of work in recent months and, as such, we have not been able to furnish you with our determination in this matter as soon as we would have hoped.

Your complaint regarding the licence has now been considered and I am able to provide you with the outcome. The Environmental Information Regulations 2004, under which your initial request was processed, generally presumes reusability of information unless otherwise exempt or restricted. Although the information you requested was subsequently



disclosed to you restrictions on use were placed in accordance with the provisions of ROPSI. Under regulation 12(1), a public sector body may impose conditions on re-use where appropriate through a licence. However, under regulation 2, where conditions are imposed they must not unnecessarily restrict (a) the way in which a document can be re-used or (b) competition.

While the Council has considered your request to re-alter its position and grant you permission under the Open Government Licence, unfortunately, the Council is not in a position to do so at this time. Please be assured that the Council has no intention to unduly restrict your right to re-use this information or inhibit any competition that may be derived from its re-use.

As you know, the Council has a statutory duty to maintain an accurate legal record of its public rights of way in the form of a Definitive Map and Statement. Although the Council has digitised its public rights of way network, there are a number of anomalies in the data that need to be corrected before it can be published, particularly in a re-usable format. To permit re-use of this data before the anomalies have been corrected, would unnecessarily attract the risks that the Council has previously outlined to the Commissioner, and these would be enhanced in the event that the data were to be re-used for commercial purposes.

Notwithstanding the Commissioner's findings, the Council maintains that it has a legal duty to provide and maintain accurate public rights of way information, and there are risks associated with releasing the data in its current form, which it is entitled to safeguard. It would be reasonable, in all the circumstances, to safeguard against such risks by placing conditions on re-use until all the anomalies have been corrected. It is for this reason that the information is made available to you for your personal and non-commercial use under the Non-Commercial Government Licence at this time.

If you are not satisfied with the Council's response to your complaint you may appeal to the Information Commissioner's Office, at the following address:

Customer Contact
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113

Yours sincerely



Meena Lekhi