

Your ref:  
My ref: ML/MB36725



**By Email**  
Mr Wayne Pearsall

[request-358258-99dbe935@whatdotheyknow.com](mailto:request-358258-99dbe935@whatdotheyknow.com)

**Meena Lekhi**  
Solicitor

[www.warwickshire.gov.uk/wls](http://www.warwickshire.gov.uk/wls)

27 January 2017

Dear Mr Pearsall

**RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004 – INTERNAL REVIEW  
OUTCOME (REF. 1912028)**

I am writing to provide you with the outcome of the internal review.

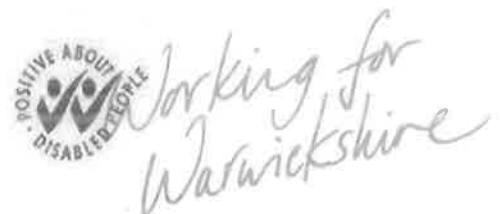
In undertaking this review, I have considered your request for information received on 21 October 2016; the Council's response dated 15 November 2016; the correspondence between you and the Council in relation to clarifying your request; and your request for an internal review. I have also considered which access to information regime applies to your request including relevant guidance from the Information Commissioner's Office ("ICO").

**How your request for information was handled**

You requested *"all inspections, reports, and so forth relating to the accidents, safety, and so on (car count, speed of road, walkways step offs, etc) of the fosseway. (passing between Tredington and Blackwell)"*.

Your request was received on 21 October 2016 and acknowledged on the same day. You were advised that it was being considered under the Environmental Information Regulations ("EIR") 2004 and that the response was due on 21 November 2016. You replied to query why your request was being dealt with under the EIR regime instead of the Freedom of Information Act 2000 ("FOIA"). It does not appear that you received a response to this query but I will deal with it as part of this review.

On 26 October 2016 you were asked to clarify your request specifically (1) the time frame you required the information for and (2) the specific location as both Blackwell and Tredington are off the Fosseway. You replied on the same day and indicated that you were interested in the previous three years but if there had not been an accident in this period you would be interested in the most recent inspections. As there were two aspects of the clarification, you sent a subsequent reply to clarify that in terms of location you were interested in the *"fosseway from Halford, past the subru garage over the roundabout, down past Armscote Rd, Tredington Rd, all the way down to darlingscote road"*. You also asked for an additional item of information namely *"all assessments on the route to Shipston Primary from cv364pq"*.



The Council responded to your request by letter dated 15 November 2016. You were advised that the information requested was held, some of which was summarily set out in the letter, and the remaining information was attached to it. Specifically, you were advised that there had been 10 personal injury collisions (2 serious) on the section of Fosseyway between Halford and Darlingscott Crossroads in the three year period between 1 September 2013 and 31 August 2016. In terms of the attachments, you were provided with a Road Safety Report regarding the accidents on the Fosseyway between Treddington and Blackwell covering the three year period, and an ordinance survey map for the location showing average freeflow speeds.

You replied on the same day specifying that the Council had not "*provided a map to darlingscote etc for the travel to Shipston*". You also asked for your reply to be passed onto Sarah Mills for an appeal. The Council replied on the same day to query whether you wanted to request an internal review (which would be dealt with by Legal Services not Ms Mills) and you replied to indicate that you did. You also stated that you are raising an official complaint about safeguarding breaches by the Council on this route. Please note that your allegations about the latter fall outside the remit of this review which is concerned with your information request only. Your request for a review was acknowledged on the same day and you were advised that the Council's Legal Team would aim to provide you with a response by 13 December 2016.

### **Internal review outcome**

#### EIR or FOIA

Information is "environmental" if it meets the definition set out in regulation 2(1) of the EIR in which case the request for information must be considered for disclosure under the terms of the EIR regime rather than FOIA. Under regulation 2(1) (f) any information "on" i.e. about, concerning or relating to the state of health and safety, including the conditions of built structures, in so far as they may be affected by elements of the environment or any factors or measures affecting the environment will be "environmental information".

As you requested information about accidents and road safety data in respect of the relevant stretch of highway, it was broadly considered to fall under the EIR regime, and you were advised accordingly.

That is not to say your request could not have fallen to be considered under the FOIA regime. I consider that in so far as the information you requested concerns accidents that are unaffected by the environment then it would not necessarily be 'environmental information' but rather information about a specific recorded accident. However, the definition in regulation 2(1) is wide ranging and broadly interpreted and it would not have made any material difference as to whether your request was dealt with under either regime, as the information was disclosed to you nonetheless.

#### Information held

Under regulation 5(1) of the EIR, if a public authority holds environmental information at the time of a request then it shall make it so available. Although your request was quite wide i.e. "*all inspections, reports and so forth...*" the Council only held the high level data provided to you in the form of the Road Safety Report together with the average freeflow speeds shown on the ordinance survey map. Any specific inspections, assessments or reports relating to accidents are not undertaken by this authority unless there is a fatality resulting from a defect on the highway and there were none for the period in question.

## Other

The additional item you requested during the clarification stage of your request was not specifically addressed in the Council's response i.e. "*all assessments on the route to Shipston Primary from cv364pq*". However, as mentioned above, no such specific assessments are produced unless there is a fatality resulting from a defect on the highway.

In your request for an internal review, you state that the Council had not provided you with a map to "*darlingscote etc for the travel to Shipston*" however, this was not part of your original request and hence it was not addressed.

## **Conclusions**

I have determined that the Council correctly dealt with your request and you were provided with the information you requested in so far as it was held by this authority. Although your request could have potentially been considered under the FOIA regime it made no material difference to the Council's substantive response in terms of disclosure.

The Council aims to complete an internal review within 20 working days but in some cases it can take up to 40 working days. We are currently experiencing a high volume of work and it has taken us slightly longer than our usual times scales to complete this review for which I apologise.

If you are not satisfied with the outcome of the review you may appeal to the ICO, at the following address:

FOI Compliance Team (complaints)  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF

Tel: 0303 123 1113

Yours sincerely



Meena Lekhi