



MERTON AND RICHMOND LEGAL SERVICES

Paul Evans Assistant Director of Corporate Governance
and Joint Head of Legal

Mr Juan Soto
[request-115523-1b09516c@whatdotheyknow.com]

Gifford House
67c St Heller Avenue
Morden SM4 6HY
DX 161030 Morden 3

Direct Line: 020 8545 3470
Fax: 020 8545 3244

My Ref: CS/LEG/CW 328/25
Your Ref:

Date: 29 June 2012

Dear Mr Soto

FOI Request – Traffic Order governing Bus Lane located on Upper Green East,
Mitcham
Review of Decision

Your email of 19 June requested an internal review of the handling of your FOI request for “Traffic Management Order Upper Green East”. I was appointed to carry out that review.

Your original request was received on 3 May when you requested a copy of the traffic order which governs the Bus Lane located on Upper Green East, Mitcham. You also requested the date that the orders were made public in the London Gazette and the date the notice was sent to the Chief of Police. You provided a link to the legislation and set out the legislative requirements regarding notice.

On 31 May you were sent a copy of the London Borough of Merton (Bus Lane)(No 39) Traffic Order 2011, made on 9 November 2011 and coming into force on 14 November. The Schedule to that Order set out the length of road affected (Commonside West and Upper Green East, Mitcham. Northbound from Commonside West roundabout junction with Commonside East northwards to a point 50 metres south east of Upper Green East junction with London Road). You were also informed of the date the order was advertised in the London Gazette and the date the police were notified. This information was supplied within the 20 working days specified in the Freedom of Information Act 2000.

On 19 June you emailed requesting an internal review into the way your request had been handled. You had received the traffic order but complained that your request for two further documents relating to notification to the police and the “local gazette” (presumably you mean London Gazette) had not been supplied. I

have re-read the original request you made and it does not request copies. The request was for a copy of the traffic order and "dates" of notification not copies.

Clarification was sought and in your email of 20 June you requested the original order made on the bus lane, not the 2011 extension. You also requested copies, not dates, of "the adverts and a copy of the letter to the ORIGINAL order when the bus lane was put in". By "letter" I take it mean notification to the police.

On 21 June the Freedom of Information Officer apologised for sending you the wrong order and that same day emailed to you the London Borough of Merton (Bus Lane)(No 9) Traffic Order 2001.

This was the original order. The Schedule to that Order set out the length of road affected (Commonside West, Mitcham. Northbound from Commonside West roundabout with Commonside East northwards to a point 60 metres south-east of Upper Green East junction with London Road).

I note from the 2011 Order that it revoked the 2001 Order as from 14 November 2011. I assume therefore that the "illegal fine" you refer to in your email of 19 June related to a pre 14 November 2011 contravention.

Although an apology was given I do not feel that an apology was in fact due. You had asked for a copy of the Traffic Management Order for the bus lane in Upper Green East, Mitcham and this is what you had been sent, the current Order. Unless you had specifically requested it there would have been no reason to send to in May 2012 an Order which had been revoked in November 2011.

The email of 21 June stated that the other two documents you requested, relating to the 2001 Order, could not be supplied. Regarding advertisements, these are only retained for 6 years. Regarding the letter to the police I understand that these are in a standard format and not retained. Under FOI, subject to any other exemptions which may apply, the local authority is only required to disclose information it holds at the date of the request. It had ceased to hold that information.

The information you request may be available from the London Gazette and the police. Under FOI the local authority is under no obligation to create information or obtain this information for you.

In conclusion, I do not agree that an error was made in sending you the current Order for the bus lane in Upper Green East, Mitcham. When you explained you wanted the original order this was sent to you the same day. You did not originally request copies of adverts and notices but dates and so I do not feel this aspect of the request was dealt with incorrectly. Regarding adverts and notices for the original Order these are no longer held and so this part of your request cannot be met.

I understand from Traffic and Highways Services that the purpose of the 2011 Order was to realign the bus lane to allow for a loading bay to be accessed. I have also double checked that there are no other bus lane Orders for Upper Green East, Mitcham.


If you are dissatisfied with my decision then you may take the matter to the Information Commissioner's Office at:

Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF

Fax:01625 524 510

www.ico.gov.uk

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Chris Warner', with a long horizontal stroke extending to the left.

Mr Chris Warner
Manager Litigation and Planning Team
Merton and Richmond Shared Legal Services