

Freedom of Information Act 2000

Decision notice

Date: 7 November 2012

Public Authority: Homes and Communities Agency
Address: Maple House
149 Tottenham Court Road
London
W1T 7BN

Decision (including any steps ordered)

1. The complainant has requested information relating to a plaque that used to feature on the Bradford Odeon cinema (Bradford Odeon).
2. The Commissioner's decision is that the Homes and Communities Agency (HCA) has complied with the Freedom of Information Act 2000 (the Act) and does not hold any information relevant to the complainant's requests.

Request and response

3. On 12 February 2012, the complainant wrote to HCA and requested information in the following terms:

"The former Odeon cinema in Bradford had a Bradford City Heritage plaque on its wall reading "This building, formerly the New Victoria Cinema, was built in 1930 and was one of the biggest English cinemas outside London with 3,318 seats, a restaurant and a ballroom" which was removed in 2007.

I require the following information:

1. *Was this plaque removed by, or was its removal sanctioned by, Yorkshire Forward?*
2. *Who authorised its removal?*
3. *Does Yorkshire Forward (or the HCA) still have it?*

4. *Where is it?*

5. *Why was it removed?*

6. *When do you intend to reinstall it?*

I am assured by Yorkshire Forward that the records relating to this have been safely transferred to the Homes and Communities Agency. Yorkshire Forward's assurance can be found at the following link: <http://goo.gl/cwW8P>"

4. HCA responded on 23 February 2012. It stated that it did not hold any relevant information to the request.
5. Following an internal review HCA wrote to the complainant on 23 March 2012. It upheld the original decision.

Scope of the case

6. The complainant contacted the Commissioner as he believes HCA hold information relevant to his request.
7. The Commissioner considers the scope of the case to be whether HCA holds any information relevant to the complainant's request.

Reasons for decision

Complainant's previous request

8. In November 2007 the Bradford Telegraph and Argus released an article about the removal of a plaque from the Bradford Odeon.¹ In the article a spokesperson for Yorkshire Forward (YF) stated they had removed the plaque and it "had been put in safekeeping".
9. The request in this case was originally addressed to YF on 31 December 2011. At that time YF was in the process of transferring all its assets to other organisations as it was to be closed down on 31 March 2012.

¹http://www.thetelegraphandargus.co.uk/archive/2007/11/15/Mike+Priestley+%28columnists+mikepriestley%29/1836751.Counting_the_cost_of_lack_of_privacy/

10. In YF's correspondence with the complainant they informed him that any relevant information about the plaque, along with ownership of the Bradford Odeon, would have been transferred to HCA. The complainant submitted a request to HCA to obtain the information he had originally asked from YF.

Section 1 dispute

11. Section 1 of the Act states that:

(1) 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.

12. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, in accordance with a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.

Arguments why information might be held

13. YF's statement to the Bradford Telegraph and Argus in November 2007 suggests they were in possession of the plaque and would have held records about the removal and the plans for its safekeeping.

14. In the internal review YF provided on 10 February 2011 they stated that:

"an information transfer agreement between Yorkshire Forward and HCA under which all Yorkshire Forward's information relating to the transferring assets (including the Odeon) was transferred to HCA.....All of the files – paper and electronic – that might have contained information relating to the plaque, its whereabouts and any discussion or correspondence described in the Further Evidence submitted by the Requester have been transferred to HCA.....Effective and secure information transfer to successor bodies is a major part of this process, and to my knowledge the transfer to HCA was comprehensive and successfully completed"

15. YF also confirmed that it had transferred most of its land assets, including the Bradford Odeon, to HCA.

16. Therefore the Commissioner considers there is a reasonable expectation that any relevant information that was held by YF would have been transferred to HCA.

Arguments why information might not be held

17. HCA confirmed to the Commissioner that some of YF's electronic and paper records were transferred to them. HCA also confirmed that they had taken over control of the Bradford Odeon.
18. HCA stated that no "plaques, signs, memorials or other artifacts were sent to us". They also confirmed that the plaque had not been found on the site of the Bradford Odeon.
19. YF stated that they had transferred over to HCA "land assets", such as the Bradford Odeon, and paper and electronic records. No mention was made of the plaque itself. Therefore on the balance of probabilities the Commissioner considers it unlikely that HCA holds the plaque.
20. At no point in YF's response to the complainant did they confirm whether they had previously held any information about the plaque before the transfer of its assets and records. There is no evidence to suggest that any such information held had been transferred over to HCA.
21. YF informed the complainant that their files "that *might* have contained information relating to the plaque"² had been transferred. No assurance was made that the information had been identified and selected to be transferred. Therefore the Commissioner accepts there is reasonable doubt over whether any information would be held by HCA.
22. HCA has performed all the customary searches for information of its electronic records and was unable to locate any relevant records. HCA asked all members of staff who work in the local Operating Area and no information was discovered. HCA also asked the members of staff who had transferred over from YF Property Team and they were unable to provide any relevant information.

Decision

23. In the circumstances of this case, whilst there is a reasonable expectation that HCA would hold records concerning the plaque, there is no evidence to show that HCA ever received this information from YF or that they currently hold any such information. Furthermore, the

² Emphasis placed by the Commissioner

Commissioner is satisfied with the extent and nature of the searches conducted by the HCA.

24. Therefore the Commissioner's decision is that on the balance of probabilities HCA does not hold any information relevant to the complainant's request.

Other Matters

25. YF stated in 2007 that the plaque had been "put in safekeeping". The Commissioner is concerned that records about an item of cultural significance cannot be found, given that it was supposed to be "in safekeeping". However, his role is to determine whether information which has been requested is held and cannot rule on whether such information *should* be held.

Right of appeal

26. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

27. 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.
28. 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

Alexander Ganotis
Group Manager – Complaints Resolution
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