

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 17 September 2012

Public Authority: Devon County Council
Address: County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Decision

1. The complainant has requested information about the inspection and maintenance records for a pedestrian footbridge. Some information was disclosed in response to the request but the complainant is not satisfied that all the information held by the council has been disclosed to him.
2. The Information Commissioner's decision is that Devon County Council has disclosed all the information it holds which is described in the complainant's request. The Commissioner does not require the public authority to take any further steps to ensure compliance with the legislation.

Request and response

3. On 5 September 2011¹, the complainant wrote to Devon County Council (the council) and requested information in the following terms:

¹ http://www.whatdotheyknow.com/request/footbridge_higher_mill_lane_cull#outgoing-187723 see correspondence beginning 5 September 2011. The requests under consideration in this decision notice occurred as part of a sequence of requests and correspondence submitted by the complainant. The requests fall into three pairs of related enquiries, dealt with as three separate requests by the council. These have been dealt with by the Commissioner in cases FS50430733, FS50430723 and FS50430745 respectively.

"IF Highways are responsible for the bridge, then please provide the last 5 years of inspection records for that bridge itemising when inspected, if any repairs and what cost"

4. The council responded on 6 October 2011. It provided information on the dates of two inspections, and work carried out on one occasion, including the cost of those repairs. The complainant submitted a follow-up on 6 October 2011, for:

"Can you then please provide records of inspection to show why this bridge deteriorated to such a bad state that made it unsafe (temporary closure)which warranted £14,000 of work within a couple years, I asked for reports on inspections / repairs, can I please have them." [sic]

5. The council disclosed a small amount of further information on 10 November 2011 and, following an internal review, wrote to the complainant on 21 November 2011. It stated that it was satisfied that no further information was held. It clarified what it believed to be a misunderstanding on the part of the complainant, which had led to his belief that further information was held.

Scope of the case

6. The complainant contacted the Commissioner to complain about the way his request for information had been handled. He complained that the council had not disclosed all the information it held relating to his requests.
7. The Commissioner considers the scope of this case to be to determine whether Devon County Council has disclosed all the information it held which is described in the complainant's requests.

Background

8. A footbridge in Cullompton was replaced as part of a development to build a new supermarket in Cullompton town centre. The footbridge was replaced using funds provided by the developer ('section 106 monies') via an agreement reached under section 106 of the Town and Country Planning Act 1990² which provides that developers may be required to

² <http://www.legislation.gov.uk/ukpga/1990/8/contents>

undertake other works or provide funding for works, by agreement, in the course of that development. The council explains that the bridge was replaced to improve public access.

9. The complainant understands that the footbridge is privately owned. The Commissioner recognises that he therefore questions the use of funding derived from section 106 monies to replace or improve what he believes is a private asset.

Reasons for decision

Section 1(1) provides 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."

10. The normal standard of proof to apply in determining whether a public authority does hold any requested information is the civil standard of the balance of probabilities.
11. In deciding where the balance lies, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority as well as considering, where appropriate, any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any evidence that further information is held, including whether it is inherently unlikely that the information so far located represents the total information held.
12. The council holds a manual file on the footbridge, which contains information such as maintenance records. It explains that the footbridge supports a public highway, which, under the Highways Act 1980, falls to be maintained at public expense. It has confirmed to the Commissioner that its searches were confined to this manual file, as it was considered reasonable that all information held in respect of this bridge would be held in that manual file.
13. During the course of the Commissioner's investigation the council undertook a thorough review of the full contents of the file which is held on the bridge. The file contains a record of the inspection and maintenance of the bridge. The Commissioner agrees that the requested

information would be likely to be held within the dedicated file held on this bridge, and is satisfied that the council has conducted sufficiently thorough and well-directed searches for the requested information.

14. The complainant has given his view that the inspection and maintenance records he has received do not adequately explain the need for replacement of the bridge. This is clear from his follow-up request of 6 October. His view is that if the bridge was in sufficiently poor condition that its replacement was justified, then there would be likely to be considerably more information in the bridge inspection and maintenance records than has been provided to him, to reflect this deteriorating condition. He gave his recollection, as a former Cullompton town councillor, that there was an issue with the condition of the bridge during his tenure, which included the period specified in the request.
15. The complainant is therefore understood to be arguing that it is inherently unlikely that the information located so far represents the total information held. He suggested that the minutes of meetings for CRAG, an advisory group attended by council officers, might confirm his view. The council has explained that CRAG (understood to refer to the Cullompton Enhancement and Regeneration Advisory Group) was not a group led by the County Council, although its officers were present at its meetings. At the Commissioner's behest it searched for copies of minutes of these meetings, but none were located.
16. The complainant was unable to provide the Commissioner with any other material which might provide for a wider search for information, so in the absence of information to suggest any new lines of enquiry, or alternative locations for searches, the Commissioner accepts that the council has already conducted appropriately directed searches in the location where it might reasonably expect such information to be found. As it had, at the Commissioner's request, already undertaken a thorough review of the relevant file and conducted further searches, the Commissioner is satisfied that there are no grounds to conclude that further information is likely to be held.
17. Furthermore, the council has explained to the Commissioner that the decision to replace the bridge was not taken on the basis of its condition, but in order to improve public access. The decision was not taken as a result of any material degradation of the bridge in question. Consequently, the complainant's view, summarised at paragraph 14, above, does not support an argument that it is inherently unlikely that the information located so far represents everything held by the council.
18. The Commissioner accordingly finds that, on the balance of probabilities, no further information is held by the council which is described in the

Reference: FS50430745

complainant's 5 September 2011 request, or his follow-up request of 6 October.

Right of appeal

19. 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

20. 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.
21. 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

Andrew White
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