

Freedom of Information Act 2000

Decision notice

Date: 21 January 2014

Public Authority: Essex County Council
Address: County Hall
Market Road
Chelmsford
CM1 1QH

Decision (including any steps ordered)

1. The complainant requested information relating to the closure of Colchester High Street. The Commissioner's decision is that on the balance of probabilities Essex County Council (the Council) does not hold any further information relevant to the complainant's request. No further steps are required.

Request and response

2. On 4 May 2013, the complainant wrote to the Council and requested information in the following terms:

"I wish to submit the following Freedom of Information Requests:

- 1. What publicity plans did Essex County Council put together to publicise the High Street Road closure which began in March 2013?*
 - 2. What publicity plans were actually implemented by Essex County Council with respect to the High Street road closure?*
 - 3. Was any consideration given to how to publicise the High St road closure to the Garrison estate and if so, was any such action taken?"*
3. The Council responded on 3 June 2013. It provided a description of the publicity plans it had implemented. The complainant replied on the same day to complain that the response did not properly address their request

as the Council had not disclosed documents, such as a communication plan.

4. The Council confirmed it did not have a communication plan for the closure of Colchester High Street, whether formal or informal. However it did provide some supporting documents about the road closure: a copy of the press release, the traffic notice to be displayed in the local newspaper, and a 'Chief Office Action' from the Development, Highways and Transportation Department. This information – along with the original response – is provided on the Council's website.¹
5. The complainant remained dissatisfied, and complained to the Council on 7 June 2013. In this the complainant also made the following request:

"Please provide me forthwith with a list of the communication actions which were taken in addition to these two actions, and emails/other informal communications discussing how to communicate the information to the local community."

6. The Council interpreted the complainant's dissatisfaction as a request for an internal review. The review was carried out on 5 July 2013, which upheld the Council's position, although it did also provide two action points from meetings of the Colchester Better Town Centre group. The Council explained that these action points were the responsibility of Colchester Borough Council, not the County Council, so the information was outside the scope of the complainant's request but was being included in the interest of transparency. No information was included in the review specifically about emails or other informal communications but the review did categorically state that no further relevant information was held.

¹ <http://www.essex.gov.uk/Your-Council/Your-Right-Know/Pages/Freedom-of-Information-search2.aspx>: search for "Publicity Plans"

Scope of the case

7. The complainant contacted the Commissioner on 3 August 2013 to complain about the way their request for information had been handled.
8. The Commissioner considers the scope of the case to be whether there is any further information held which is relevant to the complainant's requests of 4 May 2013 and 7 June 2013.

Reasons for decision

9. Section 1 of the Freedom of Information Act 2000 (the Act) states that a public authority is obliged to provide information it holds in response to a request made in accordance with the Act – providing the information is not exempt.
10. 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 might be held, the Commissioner, in accordance with a number of First-Tier Tribunal decisions, applies the civil standard of the balance of probabilities.

Requests of 4 May 2013

11. In the Council's response to the complainant it confirmed that all of the plans "put together" to publicise the road closure were implemented, which for the purposes of this decision means that the Commissioner will consider items 1 and 2 of the request together.
12. During the course of the Commissioner's investigation the Council explained that – whilst it is the local highway authority – Colchester Borough Council led on the publicity for the scheme and did the majority of the work. This was because the Borough Council had a greater understanding of how to promote the scheme to the local community and had more established channels of communication. The County Council confirmed to the Commissioner that it did not hold a copy of any publicity plan created by the Borough Council.
13. The Council explained that this is not how road closure orders are generally publicised. However, as the Borough Council proposed the measures and was the driving force behind them it assumed the responsibility of promoting them, whereas in other circumstances it might fall to the County Council to publicise them.

14. In response to the Commissioner's questions the Council explained that publicity plans – whether formal or informal – would not generally be required for a road closure, and were usually reserved for instances where there was a significant need to generate publicity.
15. Based on this information, and the details provided of the Council's searches for relevant information, the Commissioner is satisfied that the Council has met its obligations under the Act to locate information relevant to the complainant's request. Therefore, on the balance of probabilities, the Commissioner's decision is that no further information is held for items 1 and 2 of the complainant's request of 4 May 2013.
16. Regarding item 3 of the complainant's request of 4 May 2013, the Commissioner notes that the Council explained to the complainant that it did not target specific areas as "town centre users come from a wide geographic area". The Commissioner considers this is reasonable, and as the Council has confirmed no further information could be found, his decision is that on the balance of probabilities it is unlikely any further relevant information is held for item 3 of the complainant's request of 4 May 2013.

Request of 7 June 2013

17. When reaching his decision for this request the Commissioner has been careful to note that the complainant wanted emails or other informal communication on the topic of how to communicate information about the road closure "to the local community".
18. It is evident that the Council does hold emails and other informal communications relating to the road closure, as it has disclosed these in response to other requests.² However, amongst that information the Commissioner has not located any emails or other informal communications relating to how to communicate the road closure to the local community.
19. In response to the Commissioner's investigation, the Council explained that it did not retain any of the emails which might be relevant to the complainant's request. It explained that generally these emails are retained but the officer concerned did not do so for this instance.

² For example:

https://www.whatdotheyknow.com/request/colchester_high_street_improve_me?unfold=1

20. The Commissioner's view is that this is unfortunate but, on the basis that the Council has made relevant checks with staff involved with the road closure scheme, is satisfied by the Council's explanation. The Council has demonstrated that it is willing to be transparent on this subject, as evidenced by its provision of other information relating to the complainant's requests and also other requests about the road closure. The Commissioner is satisfied that the Council has conducted the required searches to identify relevant information in this case and has met its obligation under the Act. Therefore, on the balance of probabilities the Commissioner's decision is that the Council is unlikely to hold any relevant information to the complainant's request of 7 June 2013.

Summary

21. The Commissioner's decision is that on the balance of probabilities it is unlikely the Council holds any further relevant information for the request of 4 May 2013 and does not hold any relevant information for the request of 7 June 2013. As such, no further action is required on behalf of the Council.

Right of appeal

22. 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: GRC@hmcts.gsi.gov.uk

Website: <http://www.justice.gov.uk/tribunals/general-regulatory-chamber>

23. 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.
24. 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
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