

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 28 April 2014

Public Authority: South Gloucestershire Council
Address: Council Offices
Castle Street
Thornbury
South Gloucestershire
BS35 9BP

Decision (including any steps ordered)

1. The complainant has requested information about documents relating to the decision to introduce 'part nighting' of the street lights by South Gloucestershire Council (the Council).
2. The Commissioner's decision is that the Council has disclosed all of the recorded information held in respect of this request.
3. The Commissioner does not require the public authority to take any further steps.

Background

4. South Gloucestershire Council made the decision to introduce part night lighting (some of the street lighting goes off for a period of time overnight) in order to reduce costs and reduce CO₂ emissions.
5. The policy for part night lighting was approved by the Council in 2010. The process followed was for the stakeholders involved, including police, the Anti-Social Behaviour (ASB) team and the Road Safety Team to inform the Council of areas of concern. The review was considered by the Council as an exception review which means that if no concerns are raised then nothing is recorded.

Request and response

6. On 9 August 2013, the complainant wrote to the Council and requested information in the following terms:

"I want a copy of the review carried out by the road safety team and the police as part of the risk assessment before the lights were part nighted".

7. On 19 August 2013 the complainant further asked:

"As per the statement issued by the Council, see below. I want a copy of the risk assessment sent to me. '3.13 Has a safety review been carried out on the roads affected? Yes - All roads will have had a review carried out by our road safety team and the police as part of the risk assessment before any lights are part nighted".

8. The statement referred to in the request was South Gloucestershire Council's "Part Night Lighting Frequently Asked Questions" document.

9. On 10 September 2013 South Gloucestershire Council responded. It addressed the request with regard to the specific road on which the complainant lives. The Council advised that it felt it had provided the information requested in previous emails sent during the month of August. It provided a detailed response outlining the general issue of part night lighting and detailing the complainant's correspondence with the Council on this matter. It stated that there was no risk assessment for this specific road.

10. The Council further provided a table of criteria relevant to 'all night' lighting rather than 'part night' lighting. Review comments on this table had been added and related to a specific road.

11. Following an internal review, on 19 September 2013 the Council advised that it would not review the matter further as it had provided all the information available. It had previously provided a review on 17 September 2013.

Scope of the case

12. The complainant contacted the Commissioner on 22 November 2013 to complain about the way the request for information had been handled. Specifically the complainant argued that the request had not been responded to and had been refused. In further correspondence with the

Commissioner, the complainant referred to the fact that the Council related her request for information specifically to one road when this was not in fact her request.

13. The complainant has made it clear in correspondence to the Commissioner that she is seeking copies of a review and risk assessment regarding its decision to introduce the 'part-night' street lighting scheme, and that the request was not area specific. She believes the Council should hold documented information assessing any risks associated with the scheme as a whole.
14. The Commissioner considers the scope of this investigation is to determine whether the Council holds any information relevant to the request for a review document or risk assessment document relating to the concept of, or proposals for, part night lighting within the South Gloucestershire Council area.

Reasons for decision

15. Section 1(1)(a) and 1(1)(b) of FOIA states that any person making a request for information is entitled to be informed by the public authority whether it holds the information and if so, to have that information communicated to him.
16. In considering cases such as this the Commissioner will consider whether, on the balance of probabilities, the requested information is held. In order to reach a decision on this the Commissioner will ask the public authority detailed questions about the request and responses. He will consider the context of the case, the nature of the requested information, the authority's responses, the arguments provided by the complainant and any evidence to suggest that the information in question is held. The Commissioner will also ask for details of all searches carried out in order to retrieve information.
17. In its submission to the Commissioner, the Council has explained that the 'risk assessment' it conducted was an initial document which highlighted the generic risks of part night lighting and a series of considerations. A copy of this document has been provided to the complainant. The review criteria were derived to mitigate these identified risks but a review is only carried out where concerns are raised against the criteria in a specific area. Aside from the criteria already disclosed to the complainant, the Council did not create any further general 'review' or 'risk assessment' documents relating to the street lighting scheme. Furthermore, it did not record information about the effects or risks of the scheme for each and every area. Where

concerns were not raised about a particular area, no review was conducted and therefore no recorded information is held.

18. The complainant asserts that neither a review nor a risk assessment can be conducted without something being recorded or written down. However, the Commissioner considers the Council has clarified the approach it took in this case. In terms of the review and risk assessment, the Commissioner accepts the Council's explanation that it did not produce a general risk assessment of the proposed street lighting scheme and that a review will only exist in relation to a specific area where concerns have been raised by those who have been consulted. In these circumstances the Commissioner accepts the Council's explanation that it does not hold further information of the type the complainant is seeking, because it did not create an additional risk assessment or a generic review document. He notes that the Frequently Asked Questions (FAQ) document already provided to the complainant could be interpreted in such a way that would suggest the existence of a review for each road. However, the explanation in the submission from the Council to the Commissioner has provided clarity on this issue.
19. The Council's response also addressed the Commissioner's detailed questions relating to searches undertaken in order to identify information pertinent to the request.
20. The Council has confirmed that its department of Environment and Community Services undertook searches of the shared drive and email systems and, due to the fact that nothing is recorded for areas where no concerns are raised, the search revealed no additional information.
21. The Council initially handled the request with reference to the name of a specific street where the complainant lives. However, the Council has subsequently confirmed that it did not search for a wider risk assessment because it was clear that the only risk assessment held was that agreed as part of the committee paper in 2012, and already provided to the complainant. Therefore the Commissioner notes that the searches the Council made for information relating to a particular street name were not directly relevant to the request, which was not street-specific.
22. When asked why it had responded to the complainant's request with specific regard to only one street, the Council stated that it had received requests from the complainant which were about a specific road and requests which were generic. The Commissioner accepts that although the Council may have considered this approach helpful, the request was generic in nature.

23. With regard to the destruction or deletion of documents, the Council confirmed that no relevant documents would have been destroyed or deleted, with the Council retention policy stating that destruction of documents would be appropriate seven years after the last action.
24. Whilst the Council acknowledges that there is a business purpose for holding relevant information regarding the decision whether or not to implement part night lighting, the Commissioner notes the Council's explanation that no information was recorded where no concerns were raised.
25. In its response to the complainant's request, the Council included a copy of the broader risk assessment and provided a narrative of the process followed when applying part night lighting criteria. The Council had also separately forwarded to the complainant a copy of the results of a consultation process in respect of a particular area.
26. In conclusion, the Commissioner is satisfied that on the balance of probabilities the public authority has disclosed the information it holds relevant to the request. Whilst he accepts that the FAQ document could be read in a way which suggests the existence of a recorded review and risk assessment relating to the overall street lighting scheme, he accepts the Council's position that the risk assessment is generic and that the information has been provided to the complainant. Although the complainant believes the Council ought to have recorded more information about the street lighting scheme, the Commissioner is satisfied that this is not the case. Therefore, as the Council has provided the information it holds within the scope of the request, it is not required to take further steps.

Right of appeal

27. 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: www.justice.gov.uk/tribunals/general-regulatory-chamber

28. 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.

29. 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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