

Environmental Information Regulations (EIR)

Decision notice

Date: 9 June 2014

Public Authority: Bath and North East Somerset Council

Address: The Guildhall
High Street
Bath
Somerset
BA1 5AW

Decision (including any steps ordered)

1. The complainant has requested information from Bath and North East Somerset Council ("the council") about a traffic scheme. The council provided held information in response. However, the complainant contested that further information was held.
2. The Commissioner's decision is that the council has provided all held information within the scope of the request. However, the council breached regulation 5(2) by failing to provide a response to the complainant within 20 working days.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 20 June 2013 the complainant wrote to the council and requested the following:

"Please could you provide details of any actions related to the Rossiter Road/Widcombe Parade traffic scheme for the last twelve months.

This to include, where available, minutes of steering group and any other internal or external meetings.

Plans of any scheme considered, approved, amended or rejected with estimated costings.

(This last to include designs produced by [redacted name].)

Please also provide a list of meetings that have been held between highways officers and other organisations.

Please would you also include details of any safety audits or traffic/pedestrian counts carried out."

5. The council responded on 29 August 2013 and provided held information.
6. The council provided the outcome of its internal review on 14 November 2013. It provided additional held information that was identified during its course, and confirmed that no further information was held.

Scope of the case

7. The complainant submitted his complaint to the Commissioner on 20 October 2013, and contested the completeness of the council's response.
8. The Commissioner considers that the scope of this case is the determination of whether the council is likely, on the balance of probabilities, to hold further information that falls within the scope of the complainant's request.

Reasons for decision

Regulation 5(1) – Duty to make information available on request

9. Regulation 5(1) states that any person making a request for information is entitled to have that information communicated to them. This is subject to any exceptions or exclusions that may apply.

The Commissioner's investigation

10. On 25 February 2014 the Commissioner wrote to the council to request evidence about the searches it had undertaken, and its position in

respect of specific information that the complainant considers should have been provided in response to his request.

11. The council has informed the Commissioner that the information that the complainant has requested would be stored within a hardcopy 'working file' and a computerised database within the Highways Group. The FOIA representative within the Highways Group has consulted both the working file and the database in order to identify information that falls within the scope of the request. Additionally, the FOIA representative liaised with the Highways Group Manager, the Projects Manager, and the Divisional Director for Project Management in order to identify whether any further information may be held. The council has further explained that these actions were reviewed as part of the internal review, and that the council was satisfied that all relevant held information was identified and provided to the complainant.
12. The complainant contests that he should have been provided with the minutes deriving from a specified residents association, and has provided the Commissioner with an example minute. The council has explained to the Commissioner that there is no business or statutory purposes for it to hold these minutes, as the residents association is a private group not administrated by the council. The Commissioner has reviewed the website of the residents association and is satisfied that it is a privately run group.
13. The complainant further contests that correspondence was not provided in response to his request, and has provided the Commissioner with a copy of an internal email between council officers and councillors. In relation to this, the Commissioner noted that the council advised the complainant within its internal review that correspondence and communications were not held. The Commissioner subsequently asked the council to confirm whether it considered the request to include correspondence and communications, to which the council confirmed it did not, and that it had restricted its search to the information specified within the request. While the complainant considers that this information should have been provided by the council, the Commissioner has reviewed the wording of the request and does not consider that correspondence and other communications were requested, and that it was therefore reasonable for the council to not undertake a wider search for this.

Conclusion

14. In reaching a conclusion on this case, the Commissioner has needed to consider, on the balance of probabilities, whether the council is likely to hold further information that falls within the scope of the complainant's request.

15. In reaching this decision, the Commissioner has principally considered the thoroughness of the council's search for relevant information, and the lack of any business or statutory reason to hold part of the information that has been requested. Having reviewed the wording of the complainant's request, the Commissioner does not consider that correspondence and other communications were requested, and has therefore not considered that aspect.

Regulation 5(2) – Time for compliance

16. Regulation 5(2) requires that environmental information, unless subject to any exceptions or exclusions that may apply, should be disclosed as soon as possible following receipt of a request and, in any event, within 20 working days.
17. In this case the Commissioner has identified that the council failed to provide a response to the complainant's request within 20 working days, and therefore breached the requirement of regulation 5(2).

Right of appeal

18. 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

19. 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.
20. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF