

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 January 2015

Public Authority: Kent County Council
Address: Sessions House
County Hall
Maidstone
Kent
ME14 1XQ

Decision (including any steps ordered)

1. The complainant has requested information about a concessionary travel scheme from Kent County Council ("the council"). The council responded that the information was not held, which the complainant subsequently contested.
2. The Commissioner's decision is that the information is not held.
3. The Commissioner does not require any steps to be taken.

Request and response

4. On 20 February 2014, the complainant wrote to the council and requested information in the following terms:

"Under freedom of information, I request copies of correspondence to and from bus firms and quotes from bus companies leading up to an arrangement on which payment for the freedom pass service from KCC to each company was and is being made. Also copies of such agreements contracts that have been agreed as a basis of that service. Papers to indicate exactly the service to be provided and the beginning and end of the arrangements."
5. The council responded on 13 March 2014. It disclosed related information, but confirmed that the information specifically sought was not held.

6. Following an internal review the council wrote to the complainant on 9 June 2014. It confirmed that the information requested was not held.

Scope of the case

7. The complainant contacted the Commissioner 1 July 2014 to contest the council's response. Specifically, she contested the council's position that the requested information was not held.
8. The Commissioner considers the scope of this case to be the determination of whether the council, on the balance of probabilities, is likely to hold the requested information.

Reasons for decision

Section 1(1) – Duty to make information available on request

9. Section 1(1) of the 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 them. This is subject to any exemptions or exclusions that may apply.
10. The FOIA provides a right of access to information in recorded form, and only that which exists at the time of the information request. The FOIA does not require a public authority to generate new information, such as in the form of an explanation of opinion, in order to respond to a request.

The council's position

11. The complainant has requested information about a concessionary travel scheme referred to as the 'Kent Freedom Pass' (now known as the 'Young Person's Travel Pass'). The council has advised the Commissioner that the majority of bus services in Kent are operated commercially and are regulated by the Department for Transport. As such the council does not have direct involvement with the services, and is not responsible for either providing or regulating them.
12. The council has also concisely detailed its relationship to the Kent Freedom Pass:

"The nature of concessionary travel schemes is such that they use a Statutory Tool to introduce a mechanism whereby bus operators are reimbursed for the fare that they would have got from the passenger if the scheme didn't exist. The only form of 'paperwork' or 'agreement' or

'contract' used to administer the scheme is the standard statutory documents; the Scheme Definitions and Arrangements for Re-Imbursement that were provided in response to the original enquiry. The statutory tool forms the basis for calculating the reimbursement and bus operators periodically submit details of passes accepted to enable the Local Transport Authority to calculate related payments to bus operators."

13. On the basis of the above, the council has confirmed that it does not hold the information requested, as there is no reason for it do so. This position has been reached through consultation with specialist officers within the council's Transport Integration Department. The council has further confirmed that it has attempted to assist the complainant by providing them with associated documents that provide information about the statutory tool by which the bus services are reimbursed.

The Commissioner's conclusion

14. In the circumstances of this complaint, the Commissioner must decide on the balance of probabilities whether the requested information is likely to be held by the council. The factors that have been considered in coming to a conclusion have included the position of the council in respect of the 'Kent Freedom Pass', the steps that the council has taken to ensure its response is correct, and the absence of any contradictory evidence that suggests the council's position is incorrect. Consequently, the Commissioner has come to the conclusion, based on the balance of probabilities, that it is unlikely the council holds the information sought by the complainant's request.

Right of appeal

15. 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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

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

16. 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.
17. 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