

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 12 May 2015

Public Authority: Nottinghamshire County Council
Address: County Hall
Loughborough Road
West Bridgford
Nottingham
NG2 7QP

Decision (including any steps ordered)

1. The complainant requested the figures for complaints received and enforcement action taken in the 2013-14 year with regards to the development/ altering of land referred to as the Service Strip. Nottinghamshire County council (the council) initial advised that it did not hold the information but following its internal review amended its initial response instead relying on section 12 of the FOIA to refuse the request as it considered to provide the information would take over 2.5 days, exceeding the 'appropriate limit'.
2. The Commissioner's decision is that the council has correctly relied on section 12 of the FOIA to refuse the requested information.
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 8 January 2015, the complainant wrote to the council and requested the following information:

"I would also like to make a request under the freedom of information act for the following information;

** How many complaints have NCC received 2013 -2014 for development/altering of land referred to as Service Strip*

** How many of the above complaints resulted in an enforcement by NCC*

* *Average time taken from complaint to issuing enforcement*

* *Number of legal enforcements pursued by NCC for non-compliance*

* *Number of successful enforcements*

* *Number of enforce within a 10 mile radius of NG9 3RF"*

5. The council responded on 23 January 2015 informing the complainant that the information was not held. The complainant contacted the council on the same day asking it to re-check its response as he was not satisfied with it.
6. The council provided its internal review decision on the 27 January 2015. It amended its initial response, stating that the information requested is not stored centrally and so for the information to be extracted it would require an officer to individually look through 35,000 records.
7. It considered that the amount of time required to retrieve and collate the information would be over the 'appropriate limit' of 2.5 days. It therefore refused the request under section 12 of the FOIA.

Scope of the case

8. The complainant contacted the Commissioner on the 4 February 2015 to complain about the council refusing his request.
9. The Commissioner considers the scope of the request is to determine whether the council was correct to refuse the request under section 12 of the FOIA.

Reasons for decision

10. Section 12 of FOIA states that a public authority does not have to comply with a request for information if it estimates that the cost of complying with the request would exceed the appropriate limit.
11. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 ("the Fees Regulations") sets the appropriate limit at £450 for the council.

12. A public authority can charge £25 per hour of staff time for work undertaken to comply with a request which, in this case, amounts to 18 hours of work in accordance with the appropriate limit set out above. If a public authority estimates that complying with a request may cost more than the cost limit, it can consider the time taken in:
 - a) Determining whether it holds the information;
 - b) Locating the information, or a document which may contain the information; and
 - c) Retrieving the information, or a document which may contain the information; and
 - d) Extracting the information from a document containing it.
13. In determining whether the council has correctly applied section 12 of the FOIA in this case, the Commissioner has considered the council's rationale provided to him during his investigation.
14. The council has told the Commissioner that the information requested by the complainant is held on its Highways Asset Management System Database but it does not hold the information about the Service Strips in its own category.
15. It explained that this information would mainly be recorded as enquiries by the council's customer service centre and depending on how the enquiry was worded when it came in, it could be put under several categories. See *Annex 1* at the end of the decision notice for a list of the categories for which the information could fall.
16. The council has explained that its system holds hundreds of thousands of records, but after the council's Highway's Team ran a search on these categories referred to in *Annex 1*, this reduced the number of records to 35,000 results. From this, the council has stated it an officer would then have to manually read each of the records to establish if any of them were concerning the service strip. It has confirmed to the Commissioner that its system does not have the ability to extract the specifically requested information electronically.
17. The council has stated to the Commissioner that some of the enquires would be straight forward to manually analyse, taking no more than 4 minutes, however others contain notes and attached documents in the form of links, which meant some could take up to half an hour to analyse. On this basis the council estimates it would take an average of 10 minutes to review each of the enquiries.

18. The council based its calculations on there being 34995 enquires that it would need to manually read through. Working on an average of 10 minutes per enquiry this equates to 5832.5 hours of work costing the council £874,875.00 in officer time, based on the costing of £25 per hour.
19. The council has advised the Commissioner that it did run a sampling exercise in order to obtain its estimates and that the method explained above is the quickest method the council has in order to gather the requested information.
20. The fact that the council does not specifically record the Service Strip in its own category in its system, but instead records it over several categories alongside other general enquires appears to restrict the council's ability to extract the requested information and so requiring it to manually review the 34995 records to see which relate to the Service Strip.
21. The Commissioner sees that even if the council were able to manually review each record in 1 minute, this would still take the council 583.25 hours of officer time to obtain the information equating to a cost of £14581.25 to the council.
22. Based on the explanations provided above, by the council, in the way it holds the relevant records and the way in which it would need to extract the information, the Commissioner finds that the council has correctly relied on section 12 of the FOIA to refuse the request.

Right of appeal

23. 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

24. 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.
25. 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

Annex 1 - List of categories:

Service:	Subject:	Open Enquiries:
Carriageway/Footway	Carriageway damage	4763
Carriageway/Footway	Carriageway obstruction	1056
Carriageway/Footway	Carriageway pothole	10854
Carriageway/Footway	Footway damage	4761
Carriageway/Footway	Footway obstruction	1413
Carriageway/Footway	Footway pothole	682
Other	Other enquiry (Highways)	3964
Other	Other request (Highways)	2943
Rights of Way/Footpaths	Rights of Ways	29
Rights of Way/Footpaths	Public footpaths	43
Searches General	Extent Enquiry	26
Searches General	Adoption enquiry	76
Trees/Verges	Grass	3072
Trees/Verges	Landscaped areas	126
Trees/Verges	Tree enquiry	1187
		TOTAL:
		34995