

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 16 September 2015

Public Authority: Wrexham County Borough Council
Address: The Guildhall
Wrexham
Clwyd
LL11 1AY

Decision (including any steps ordered)

1. The complainant has requested information regarding the numbers and location of Give Way signs installed or replaced by Wrexham County Borough Council since 2007. The Council informed the complainant that it did not hold relevant information. The Commissioner's decision is that the Council does not hold the requested information and has therefore complied with its obligations under section 1(1) of the FOIA. He does not therefore require the public authority to take any steps.

Request and response

2. On 16 March 2015, the complainant wrote to the Council and requested the following information in respect of Give Way signs :
"1) The number of 'Ildiwch/Give Way' signs (whether English or bilingual) installed or replaced by Wrexham County Borough Council between April 2007 and March 2014, and 2) the location of each one."
3. The Council responded on 23 March 2015. It stated that it does not hold a record of the location of 'Ildiwch/Give Way' signs.
4. Following an internal review the Council wrote to the complainant on 27 April 2015. It stated that the Council has neither a register of assets nor an inventory of traffic signs that contain the information requested.

Scope of the case

5. The complainant contacted the Commissioner 4 May 2015 to complain about the way his request for information had been handled. The complainant expressed concern that the Council had avoided answering item one of his request in respect of the numbers of 'Give Way' signs. He added that it must have a record from existing orders, invoices and/or payments for this type of sign.
6. He also expressed concern regarding the Council's response in respect of the location of the signs stating that he knew that workers who install the signs have directions (instructions) for each one, with a map which has been printed from a computer. He is therefore of the opinion that there must be records on the computer of the location and the dates of each highway sign installed by the Council.
7. The scope of the Commissioner's investigation is therefore to consider whether the Council has complied with its obligations under section 1(1) of the FOIA.

Reasons for decision

Section 1 – General right of access to information held

8. Under section 1(1) of the FOIA, in response to a request for information a public authority is only required to provide recorded information it holds and is not therefore required to create new information in order to respond to a request.
9. In his consideration of whether a public authority has complied with its obligations under section 1(1) of the FOIA, the Commissioner is mindful of the former Information Tribunal's ruling in EA/2006/0072 (Bromley) that there can seldom be absolute certainty that information relevant to the request does not remain undiscovered somewhere within the public authority's records. When considering whether a public authority does hold relevant information therefore, the normal standard of proof to apply is the civil standard of the balance of probabilities.
10. The Commissioner's judgement in such cases is based on the complainant's arguments and the public authority's submissions and where relevant, details of any searches undertaken. The Commissioner expects the public authority to conduct a reasonable and proportionate search in all cases.

11. In this particular case, the complainant is not satisfied that the Council has complied with its obligations under section 1(1) of the FOIA in respect of both items one and two of his request for information, as outlined in paragraphs 5 and 6 of this notice. Additionally, the complainant provided a link to a map which he believes proves that the Council identifies the location of each illuminated road sign. He further stated that he considers it is very likely the database also contains the dates the signs were installed/replaced. He has further argued that it would be irresponsible of the Council not to also keep the same information for signs which are not illuminated.
12. The Commissioner therefore contacted the Council requesting details of the rationale for its search with details and evidence of the search itself in respect of both items of the complainant's request.
13. With regard to both items one and two of the complainant's request, the Council has confirmed to the Commissioner that all relevant registers were identified and searched. The scope of the search extended to the following:
 - Highways Asset Inventory Search – The Council explained that in order to help manage, plan and co-ordinate investment in the highway network, the Environment Department has in place a number of asset registers for major highway asset groups, including bridges/structures, carriageways, footways and street lighting. For each of these asset groups, relatively accurate information is held on installation/construction, asset type, location and maintenance history. However, there is currently no such register set up for traffic signs information.
 - Street Lighting Inventory Search – The Council informed the Commissioner that as prescribed under the Traffic Signs Regulations and Directions 2002, many signs are required to be illuminated with a certain distance of street lighting. The Council's street lighting holds details of all illuminated traffic signs and their location, however it does not hold details of what type of sign is being illuminated.
 - Order/Purchasing System – The Commissioner was informed that all orders for works are processed through the Council's corporate 'Purchase 2 Pay' system. This does not provide a facility for the level of detailed search required to identify individual items of street furniture. The Council further informed the Commissioner that in the majority of cases, small sundry items will be included or combined as part of a larger works/stock order. The Council further explained that this is complicated in that no stock records are held of existing Give Way signs held by the Environment Department prior to 2007.

- Search of key terms and keywords to identify the data requested in existing order, invoices and payments.
 - Shared Network Drive – The Council confirmed that the department searched its shared network in the relevant folder as a first point of action. This is where all recorded traffic related works/programmes are stored. The department re-ran the search following the complaint to the Commissioner and provided a screen print as evidence. The screen print stated '*No items match your search*' for all activities.
 - The Council confirmed that it had searched the Corporate mailbox which yielded no results.
 - The Commissioner was also informed that the scope of the search did not extend to the Personal Network Drive as it does not contain traffic related information. Neither did the search extend to all personal mailboxes as there has been significant changeover of staff in the last five years with staff levels being reduced. However, subject searches of the individual mailboxes of the current responsible officers was undertaken. However, it did not yield any results.
14. The Commissioner has considered the arguments put forward by the complainant, and details and evidence of the scope of the search undertaken by the Council. He considers that the Council conducted both a reasonable and proportionate search of its records, and has therefore concluded that on the basis of this evidence, the Council does not hold information relevant to either items one or two of the request. The Commissioner therefore considers that the Council has complied with its obligations under section 1(1) of the FOIA.

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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF