

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 October 2016

Public Authority: Newcastle City Council
Address: Civic Centre
Newcastle Upon Tyne
NE99 2BN

Decision (including any steps ordered)

1. The complainant has requested information with regards to street cleaning schedules. Newcastle City Council (the council) responded stating that the information was not held. The Commissioners decision is that the council does not hold the requested information.
2. As the information is not held, the Commissioner does not require the council to take any steps.

Request and response

3. On 4 September 2015, within an internal review request for an earlier request, the complainant made the following request for information:

"...I request to see the street cleansing schedules for the city as this is an alternative way for me to ascertain the level of street cleaning that goes on. I would expect that the street cleaning schedules detail where the cleaning is to occur, how long it takes and how frequently the cleaning takes place. I would like this information to be as detailed as possible, particularly geographically (ie, street level).

I cannot believe that such schedules do not exist. There must be documents which instruct the cleaning crews where to clean and how frequently they are to go these locations. I would like to see these documents for the financial years: 2013-2014, 2014-2015 and 2015-2016."

4. The council acknowledged receipt of this request on the 17 September 2015.
5. The complainant contacted the Commissioner on the 12 January 2016 as she had not received a response to this request. The council then contacted the complainant on the 5 February 2016 advising that it had provided a response and provided the a copy of the response again which was dated 26 November 2015. The response was that the information was not held.
6. Following this, the complainant wrote to the council on the 5 February 2016 as she considered the information must be held.

Scope of the case

7. The complainant contacted the Commissioner again as she had received no further response. Due to the time this case was taking, the Commissioner wrote to the council to conduct its internal review as part of its response to his investigation.
8. The Commissioner considers the scope of the case is to determine whether the requested information is held by the council or not.

Reasons for decision

Section 1 of the FOIA – Information held/ not held

9. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
10. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
11. The council has told the Commissioner that it forwarded the request to the Highways and Local services department which is where this information would be located, if held. However, the Service Manager for the Street Services informed the council that there was no formal system in place at the time of the request.

12. The council has stated to the Commissioner that the information would be held electronically, if held, and that no information relevant to the request has ever been deleted or destroyed.
13. The Commissioner asked the council whether there is a business purpose or if there are any statutory requirements for it to create or retain the requested information of this type.
14. It responded stating that although it is required to provide street cleaning services, there are no statutory requirements to create the type of data requested although it does consider that it should have had a protocol in place in order to ensure that all areas are maintained within the city.
15. The council has told the Commissioner that, although it did not have an auditable system in place at the time the request was made, it has since implemented a system which sets out cleaning routes and tracks the completion of them.
16. The complainant has told the Commissioner that part of her reluctance to accept the council's response that no information is held to this request is because of another request she made in relation to rat/vermin infestations, in which again she was told there was no information held. But with that request, she discovered a newspaper article showing that the council had released vermin infestation data the year before. On production of this article, the council then agreed it did hold the information and eventually released it. And she finds it difficult to accept the council did not have a recorded rota of some sort for this request.
17. The Commissioner understands the reservations of the complainant to accept that the council would not have had a recorded rota or system in place with regards to the street cleaning. It would seem plausible that a council would have had some sort of rota in place, but the council has gone to the Service Manager for the street services, who would be the most relevant person to go to for this type of information, and maintains that the information was not being created at the time of the request and therefore not held.
18. With the council maintaining that this information was not being created or recorded at the time, and no contradictory evidence to show it was being, the Commissioner is not in a position to find otherwise when the council has confirmed that it has carried out the relevant enquiries with the service areas manager.
19. Because of this, the Commissioner has determined that on the balance of probabilities, the requested information is not held.

Right of appeal

20. 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

21. 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.
22. 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