

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 18 February 2013

Public Authority: Cheshire West and Chester Council

Address: HQ
St Nicholas Street
Chester
CH1 2NP

Decision (including any steps ordered)

1. The complainant has requested information about any discussions held regarding land associated with Queen's Park High School. Cheshire West and Chester Council (the Council) explained that it did not hold any recorded information about this. The Commissioner's decision is that the Council does not hold the requested information. The Commissioner does not require the Council to take any further steps.

Request and response

2. On 6 March 2012 , the complainant wrote to the Council and requested information in the following terms:

'Please advise what discussions have been held with which developers, and what agreements or understandings (whether formal or informal) have been proposed by or to, or reached with, them with respect to the land associated with Queen's park High School (including the boathouse) that were declared surplus to requirements in 2009.'
3. The Council responded on 2 April. It stated that there had been no discussions with developers about Queens Park High, but it had had discussions with ABK Sports regarding developing the Boathouse and bringing any water-based activity from the Redgrave Institute to the site. The Council also explained that it had been broadly agreed that it would be beneficial to the school and City if the Council could deliver any water-based activity at the QPHS site. The Council also confirmed

that it had an informal agreement to work with ABK if the Redgrave Institute came to Chester

4. Following an internal review the Council wrote to the complainant on 23 April. It explained that the agreement with ABK Sports was verbal, not written.

Scope of the case

5. On 12 June the complainant contacted the Commissioner to complain about the way his request for information had been handled.
6. He explained that there were key issues for him. First whether the refusal to explain the lack of disclosure was because the agreement was in some way unsatisfactory; secondly whether Council procedures regarding the minutes of meetings and declarations of interests were being ignored.
7. The Commissioner will consider whether the Council was correct to state that it does not hold any recorded information relating to the request.

Reasons for decision

8. Section 1 of FOIA provides that any person making a request for information to a public authority is entitled to be informed in writing whether it holds information of the description specified in the request and if it does, to have that information communicated to him.
9. The Commissioner asked the Council to provide an explanation of the searches it had carried out to locate any recorded information within the scope of the request.
10. The Council explained that it operates a system of champions within each service. In this case enquiries were sent from the Freedom of Information Team to the appropriate champion – in this case Asset Management – who trawled the electronic records relating to all parties mentioned and the school. The Council also explained that it made a request to the Development Management Service to enquire if any planning applications had been made.
11. The Council explained that it had used various search terms including the names of all the parties mentioned, the school details and the name of the locations mentioned. It also confirmed that it did not hold the requested information and that no such document had been

- created or recorded. The Council also explained what issues had been discussed during its meeting with ABK and confirmed that the agreement with ABK was verbal, not written.
12. The Commissioner is satisfied that the Council made appropriate searches to determine whether it holds relevant information to the complainant's request. Therefore, on the balance of probabilities, the Commissioner is satisfied that the Council does not hold the requested information.
 13. The Commissioner considers that the FOIA does not require public authorities to answer questions generally, but only provide answers insofar as they are held as information in a recorded form. In this case the Council does not hold recorded information in relation to the request to enable it to answer the complainant's request. The Commissioner also accepts that the Council is not obliged to create recorded information to provide to the complainant.

Right of appeal

14. 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: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

15. 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.
16. 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

Jon Manners
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SK9 5AF