

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 27 February 2013

Public Authority: Devon County Council
Address: County Hall
Topsham Road
Exeter
Devon
EX2 4QD

Decision (including any steps ordered)

1. The complainant has requested information about a decision to take legal advice in relation to traffic orders. The council initially responded providing some information, but the complainant maintained that this was not what he had requested. Following the Commissioner's investigation, the council located further information and provided this to the complainant.
2. The Commissioner's decision is that in providing the requested information after 20 working days, the council has failed to comply with section 10 of the FOIA.
3. As the information has now been provided, the Commissioner does not require the council to take any steps.

Request and response

4. On 21 January 2012 the complainant made the following request for information to the council:

"I was recently surprised to learn that Devon County Council had found it necessary to seek external legal advice regarding the legality of its traffic orders.

Please provide details of who authorised this action and when, what if any financial costs were incurred and from what budgets this funding was allocated.

Please provide details of all information provided to allow this decision to be reached, along with the notification received confirming that the traffic orders in their entirety are legal and enforceable."

5. On 16 February 2012 the council responded providing the complainant with the information it considered fell within the scope of his request.
6. The complainant expressed dissatisfaction with the response on 17 February 2012 as he considered that not all the information he had requested had been provided.
7. The council replied on 22 March 2012 asking for clarification of the information the complainant believed was missing.
8. The complainant then formally requested an internal review on 22 March 2012 and explained that the council had stated in March 2011 that legal advice had been sought, whilst the legal advice that had been provided was dated November 2011.

Scope of the case

9. The complainant contacted the Commissioner on 15 May 2012 to complain that he had not received a response to his internal review.
10. Following the Commissioner's involvement, the council sent the outcome of the internal review on 25 May 2012. It revised its position and provided the complainant with a copy of the legal advice that had been provided on 14 January 2011.
11. On 23 Jul 2012 the complainant then contacted the Commissioner to complain that the council had not provided all the information he had requested. The Commissioner raised this with the council and further information was then located and provided to the complainant.
12. The complainant asked the Commissioner to issue a decision notice to record the council's delay in providing him with the requested information. The Commissioner therefore considers the scope of this case to be to record a breach of section 10.

Reasons for decision

13. Section 1(1) of FOIA requires a public authority in receipt of a request for information to confirm whether it holds the requested information, and, if so, disclose it to the applicant. Section 10(1) of FOIA provides
14. On 3 December 2012 the Commissioner wrote to the council to ask it to reconsider the complainant's request and determine whether any further information falling within the scope of his request was held.
15. The council did so and located further information. On 19 February 2013 the complainant confirmed that he had received the council's further response. The Commissioner notes that this is over 10 months after the request was first made.

Right of appeal

16. 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

17. 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.
18. 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
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Wycliffe House
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Wilmslow
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