

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 29 September 2014

Public Authority: Brighton and Hove City Council

Address: Hove Town Hall
Norton Road
Hove
BN3 4AH

Decision (including any steps ordered)

1. The complainant has requested information in relation to the consultation on proposed 20mph zones in the city. Brighton and Hove City Council (the council) initially refused the request relying on section 22 of the FOIA.
2. During the Commissioner's investigations, the council provided some of the information as it became available, but amended its refusal under section 22 of the FOIA to the rest of the information instead advising that it did not actually hold the other information.
3. The Commissioner's decision is that the council has now provided all the information it holds within the scope of this request.
4. The Commissioner does not require the council to take any steps.

Request and response

5. On 2 October 2013, the complainant wrote to the council with regards to the consultation process of the proposed 20mph zones in the city offering his responses to the scheme. Within this response he requested various types of information, under the FOIA, in relation to this consultation.
6. The council acknowledged the request on 4 October 2013 and provided its response on the 12 November 2013. The council refused to provide

the information relying on section 22 of the FOIA, as the information requested was scheduled for future publication.

7. The complainant wrote to the Commissioner on the 12 November 2013 to advise he was not satisfied with the council's response. The Commissioner advised the complainant that he would need to request the council to conduct an internal review first.
8. On 23 December 2013, the complainant provided the Commissioner with a copy of his internal review request and the council's internal review response.
9. The internal review request was made on the 12 November 2013. In the internal review request, the complainant told the council that he was not interested at this stage in the outcome of the public consultation or the evaluation of the current phase 1 scheme. But actually seeking the data/information that formed the statements made in the public consultation documentation and by council officers at public meetings. He broke down his request for the information he required as follows:
 - a) *"The cost benefit analysis and accident data supporting the proposals on which you consulted*
 - b) *Traffic modelling you have undertaken to support the proposals on which you consulted*
 - c) *Your assessment of the environmental impact on which you consulted*
 - d) *The advice you received from both the Police and the Highway Agency on which you consulted, this was referred to at the public meeting.*
 - e) *The traffic speed data supporting your assertion that speeds in the lower section of Carden Avenue are already less than 20 mph compared with 30 mph in the upper section.*
 - f) *The speed data supporting your assertion that speeds in Coldean Lane are less than 30 mph.*
 - g) *Your assumptions regarding the impact on overall traffic volumes."*
10. The council provided the outcome of its review on the 17 December 2013. It maintained its original position.
11. The complainant advised the Commissioner that he was still not satisfied with the council's refusal of his request.

12. During the Commissioner's investigations the council reviewed its application of section 22 of the FOIA. On 29 April 2014 it advised the following for points a) to g) of the complainant's internal review request:

- a) It does not hold the collision and casualty data. The financial implications has now been recorded and published in the March 2014 ETS Committee report¹ at paragraphs 7.1, 7.2 and the report appendix paragraph 1.4
- b) It does not hold this information as it is not normal practice to undertake expensive traffic modelling for changes to speed limits such as those proposed by this scheme.
- c) The council advised this information has now been published in the March 2014 ETS Committee report at paragraph 7.7.
- d) The advice received from the police – the council advised this has now been published in the March 2014 ETS Committee report at paragraphs 4.10, 4.16, 4.59 -4.61, 4.64, 4.77 and in the Appendix Summary of responses – response 91.

Regards the Highways Agency – the council advised it does not hold this information.

- e) The council state that it has never asserted that the speeds on the lower section of Carden Avenue are less than 20mph. So does not hold that data.
- f) The council states that it has never stated that speeds in Colden Lane are less than 30mph so does not hold this data.
- g) The council advised that the information has now been published in the March 2014 ETS Committee report at paragraphs 4.55-4.56 and in Appendix 1.5

Scope of the case

13. Following this initial investigation the complainant has told the Commissioner that he considers the council does hold further

¹ [http://present.brighton-hove.gov.uk/Published/C00000823/M00004791/\\$ADocPackPublic.pdf](http://present.brighton-hove.gov.uk/Published/C00000823/M00004791/$ADocPackPublic.pdf)

information to each of the points a) to g) excluding point b) which he accepts no information is held.

14. As the council is no longer relying on section 22 of the FOIA, but instead considers it has now provided all the information it holds, the Commissioner considers the scope of the case is to determine whether the council does hold further information in points a) and c) to g) of his internal review request

Reasons for decision

Section 1 of the FOIA – Held/ Not held

15. Section 1 of 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.
16. 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).
17. The Commissioner has asked the council specifically about each of the points a) and c) to g) highlighted in paragraph 9 above.
18. For point a) the council has confirmed to the Commissioner that it does not hold accident data. This information is owned and held by Sussex Police. The only information it holds at this stage is what it has provided in paragraph 12 above.
19. The Commissioner has specifically asked, as requested by the complainant, if the council holds the working papers and if so can they be provided? The council has advised the Commissioner that no such working papers exist, but if the complainant would like to source the materials that informed the paragraphs, they are publically available at:

Council budget information on the funding for 2013/14 can be found on page 290: [http://present.brighton-hove.gov.uk/Published/C00000117/M00003266/\\$\\$ADocPackPublic.pdf](http://present.brighton-hove.gov.uk/Published/C00000117/M00003266/$$ADocPackPublic.pdf)

A more detailed budget is available on page 68 of the following link: [http://present.brighton-hove.gov.uk/Published/C00000689/M00004089/AI00032237/\\$20130312132012_003459_0014529_Draft201314dlvs2ajr.docA.ps.pdf](http://present.brighton-hove.gov.uk/Published/C00000689/M00004089/AI00032237/$20130312132012_003459_0014529_Draft201314dlvs2ajr.docA.ps.pdf)

Health costs can be found at:

http://www.healthycities.org.uk/uploads/files/001_a_partnership_for_active_living_in_brighton_and_hove_brighton_hove.pdf

20. The council provided these links to the complainant on 9 September 2014.
21. For point c) the council has stated it does not hold anything other than what he has been provided, and point d) the council has confirmed to the Commissioner that the only information it holds on this is from the police and he has been provided with the link to this information (see paragraph 12 above). The council has now also provided a full copy of the letter from the police to the complainant on 9 September 2014 for completeness.
22. For point e) the council maintains that it has never asserted that speeds on the lower section of Carden Avenue are already less than 20mph nor that speeds were 30mph on the upper section and so does not hold this data.
23. The council state that what was in fact said is that speeds at this section were slower than the rest of the road and the character of the road at this point lent itself more readily to a lower speed limit. For completeness again, the council has provided a copy of its actual speed data for this area to the complainant on 9 September 2014, maintaining it does not hold speed data showing that speeds are already less than 20mph in the lower section or 30mph on the upper.
24. For point f) the council has stated to the Commissioner that it does not hold speed data that shows speeds are less than 30mph in Coldean Lane.
25. For point g) the complainant has told the Commissioner that he was expecting the response to have included percentage change in various types of traffic such as HGV, light goods, cars, cyclists, pedestrians and bus users.
26. The council has told the Commissioner that this level of detail is not recorded and cannot provide any other information other than what it already has for this part of his request.

27. The Commissioner, other than addressing the above points, has asked the council to confirm the types of searches it has carried out to determine that it has provided all the information it holds with regards to this request.
28. The council has advised the Commissioner that it has been liaising with the officer that is managing this project. This officer is responsible for the investigation, implementation and monitoring of the project and holds all the data relevant to it.
29. The council state that all the documents for this project are held in the Transport Planning project folders and it is these folders and the emails of the responsible officer that have been searched by the council. Also much of the information requested is in the relevant committee reports on this subject, and so searches were also carried out on the reports which are publically available on the council website.
30. The has confirmed to the Commissioner that all information is held electronically and has carried out keyword searches for each of the requests highlighted in the internal review from a) to g) such as "20mph, Carden Avenue, speed surveys, ATC...". It also confirmed that if any further information were held, then it would be held electronically.
31. The council has stated that officer hand written notes from some meetings, drafts of text for reports may have existed, but these would have not been kept once the final reports were completed and no record is kept of the deletion of handwritten notes.
32. The council has confirmed to the Commissioner that it does not hold any other information other that what has been provided with regards to the request.
33. The Commissioner, on reviewing the above, has concluded that it is outside the Commissioner's remit to determine what should be held by a council or the processes it should take on such projects, and so he can only determine what is actually held in recorded form by the council.
34. On considering the above responses from the council to the Commissioner's enquiries and the further information that the council has provided, the Commissioner is satisfied that, on the balance of probabilities, the council has provided all the information it holds in regards to this request.
35. As the Commissioner has determined no other information is held, he does not require the council to take any steps.

Right of appeal

36. 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

37. 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.
38. 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
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