

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice**

Date: 13 March 2023

Public Authority: Cosby Parish Council
Address: c/o 76 Springwell Lane
Whetstone
Leicester
LE8 6LT

Decision (including any steps ordered)

1. The complainant has requested information about street lighting. The above public authority ("the public authority") provided some information, but the complainant believes more is held.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority has disclosed all the information it holds in recorded form and has therefore complied with its duty under Regulation 5(1) of the EIR. The public authority breached regulation 5(2) of the EIR as it provided some information outside of the 20 working day window.
3. The Commissioner does not require further steps.

Request and response

4. On 11 May 2022, the complainant wrote to the public authority and requested information in the following terms:

"[1] I was concerned to hear that Cosby PC is to withdraw support for the lighting on the estate after many years of doing so. Please tell me

- a) when this decision was made

- b) by whom it was made
- c) in what forum
- d) what prompted the reconsideration of a long standing agreement (contract) at this time

“[2] Please provide copies of all documents relating to considerations, discussions and decisions concerning lighting on the Cosby Cottages Estate, most particularly those recent ones relating to the decision to renege on a longstanding agreement with Cosby Cottage Association to support the lighting on the estate.”

- 5. The public authority responded on 13 June 2022. It provided some information.
- 6. There followed a trail of correspondence between the complainant and the public authority. The public authority did disclose some further recorded information, but the complaint continued to insist that further information was held.

Reasons for decision

- 7. The Commissioner considers that streetlighting is a “measure” affecting factors which in turn affect the elements of the environment. For procedural reasons, he has therefore assessed this case under the EIR – although he notes that this does not make it any more or less likely that relevant information is held.
- 8. The Commissioner is only required to determine whether it is more likely than not that further information is held in recorded form.
- 9. The EIR (like FOIA) provide a right of access to the information public authorities hold in recorded form. They do not provide a right to have questions answered satisfactorily, or the right to query the accuracy of the information provided.
- 10. The public authority provided copies of various minutes of meetings spanning the previous four years. It noted that the underlying issue had been discussed over many years, but it had been unable to locate the precise resolution that had led to the current situation of responsibility for the lampposts in question. It was however able to identify the minutes which recorded the decision to withdraw support – which it provided. It also provided a narrative version of events that had been put together from the combined recollections of long-serving councillors.

It stated that it had carried out a thorough search of its records but could locate no further recorded information.

11. In relation to part [1], the Commissioner notes that this element is predicated on a decision of the public authority. That decision was to notify Cosby Cottage Association that it intended to withdraw funding for street lighting. That decision is recorded in the minutes of the meeting of 16 December 2021. That is the information the public authority holds in recorded form and it has been provided to the complainant. Whether she considers this information adequate to explain the decision is a matter for her: the recorded information has been provided.
12. In relation to part [2], the complainant has drawn attention to items in the public authority's minutes for the meetings held in March 2021 and April 2021 which require the clerk to first "consider options and bring proposals forward" and then that "a proposal...be developed." The complainant has noted that she has not been provided with a copy of this proposal.
13. The Commissioner put these matters to the public authority and asked it to carry out further targeted searches for information.
14. The public authority explained that it had sought further advice, including legal advice, but that this information had not been created at the point the complainant made her request. The Commissioner has seen this information and is satisfied that it falls outside the scope of the request as it did not exist at the point the request was made.
15. The public authority's searches did locate a small amount of correspondence with a Highways officer at Leicestershire County Council and some correspondence with Energy provider E.on. At the Commissioner's suggestion, this was disclosed to the complainant during the course of the investigation – although the public authority maintained that this information had not formed part of the decision.
16. The public authority explained that its minutes were designed to record the matters discussed during a particular meeting and any resolutions that had been agreed. Minutes were not intended to be a transcript of the discussions that took place. Therefore, whilst the matter might have been discussed extensively during the meetings held in March, April and December of 2021, the only recorded information relating to those discussions is the entries in the minutes – which have been provided to the complainant and are anyway already published.
17. In its correspondence with the Commissioner, the public authority explained that, in between meetings, its clerk would have delegated

authority to deal with matters as “business as usual”, with only the important matters being referred back to the full council meeting.

18. The public authority further explained that, whilst the letter to the Association had gone through several revisions before being sent, these had been minimal and had not been as a result of consultation. Whilst it could not be sure, the public authority felt it was likely that the draft had been circulated with the other papers for the December 2021 meeting and would thus have been discussed at that meeting.
19. In summary the public authority argued that it had carried out extensive searches of its records and all the information it had located had now been provided to the complainant.
20. It is not the Commissioner’s role to determine whether the records a public authority holds are adequate – only whether that which is held has been provided. The complainant may disagree with the decision the public authority has taken, but that is not an indication that further information must be held in recorded form.
21. The public authority has, during the course of the investigation, disclosed a number of additional items to the complainant – notwithstanding that it maintains that some fall outside the scope of the request. The Commissioner is now satisfied that the public authority has provided all the recorded information it holds.

Procedural matters

22. The public authority breached regulation 5(2) of the EIR in responding to this request as it provided some of the environmental information it held outside of the 20 working day timeframe.

Right of appeal

23. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

24. 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.
25. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF