

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 11 September 2023

Public Authority: Calderdale Council

Address: Town Hall
Crossley Street
Halifax
HX1 1UJ

Decision (including any steps ordered)

1. The complainant has requested information with regards to restrictions on a certain bus route. Calderdale Council (the council) provided the complainant with the information it held. The complainant is of the view that further information is held.
2. The Commissioner's decision is that, on the balance of probabilities, the council has provided all of the information it holds falling within the scope of the request, and therefore it has complied with section 1 of the FOIA.
3. The Commissioner's does not require any steps.

Request and response

4. On 6 November 2022 the complainant made the following information request to the council:

"Please provide all internal documentation and email correspondence relating to the imposition of morning waiting restrictions in the outbound bus lane on Huddersfield Road, Halifax either side of the junction with Coronation Road in I think 2020. In particular I wish to see the evidence presented in justification of these restrictions"
5. The council responded on 5 December 2022, providing:
 - The internal tracking document that summarises the steps followed in making a Traffic Regulation Order (TRO) including the reasons for restrictions. This also contains the comments and objections.
 - The Notice of Making
 - The date of the informal consultations (March 2019). It advised no copy of the letter is held but the responses are summarised in the tracking document.
 - A link to its website for agreed minutes.
6. The complainant requested an internal review on 27 January 2023 as he did not consider he had been provided with all the requested information.
7. The council provided its internal review on the 30 January 2023 upholding its original response.
8. The complainant contacted the Commissioner on the 1 May 2023 complaining that he had not received all of the information which he had requested.

9. On 4 July 2023, during the Commissioner's initial investigations, the council provided the complainant with further information:
- Governing Body Meeting minutes dated 8 July 2019
 - Full Business Case Submission May 2017
 - A629 Southbound Bus Priority Document
 - A629 Consultation responses
 - Sharepoint file for Traffic Delays in West Yorkshire
 - Key Bus Issues A629 Summary
 - West Yorkshire Bus Lane Study

Scope of the case

10. The complainant contacted the Commissioner further as he still considered he had not been provided with all the information requested.
11. This decision notice therefore considers whether the council holds any further information falling within the scope of the request.

Reasons for decision

Section 1 of the FOIA – Information held/ not held

12. 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 them.
13. 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).

14. The complainant has told the Commissioner that he has not been provided with the internal correspondence that shows how the official responses were formulated or the evidence that buses suffered the actual, real-world delays that this scheme was designed to alleviate.
15. The Commissioner asked the council what searches it has carried out to determine what information it holds falling within the scope of the request.
16. The council told the Commissioner that all information would be held electronically. It said that its Strategic Infrastructure Team carried out a search of its TRO file. It also searched the relevant officer's emails and searched for historic information with its Major Projects team as the restrictions formed part of a wider regeneration scheme.
17. The council explained that the TRO file is the official record and, as such, decisions are recorded there. It explained that, generally, decisions are made as a result of verbal conversations, so the decision making process itself is not recorded, just the end result.
18. The council has confirmed to the Commissioner that it is not aware of any information relevant to the request being deleted or destroyed, and that no further information is held.
19. The Commissioner has reviewed the council's submissions and explanations of the searches carried out. He notes that the council has explained that decisions are regularly made through verbal conversations which are not recorded.
20. This may go some way to explain why it does not hold some information which the complainant may have expected to have received as part of the response to his request.
21. The council has confirmed to the Commissioner that it has been unable to locate any further information falling within the scope of the complainant's request for information.
22. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
23. Based on the above, the Commissioner has determined that, on the balance of probabilities, the council holds no further information and has provided everything it holds falling within the scope of the request.
24. The Commissioner therefore finds that the council has complied with section 1 of the FOIA.

Right of appeal

25. 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@justice.gov.uk

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

26. 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.
27. 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

Ian Walley
Senior Case Officer
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SK9 5AF