

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 19 December 2024

Public Authority: Cheshire East Council
Address: Earle Street
Crewe
Cheshire
CW1 2BJ

Decision (including any steps ordered)

1. The complainant has requested information from Cheshire East Council (the Council) regarding capital investments made in specific locations. The Council provided some information in scope of the request, and outlined information previously provided to the complainant. It cited section 22 (information intended for future publication) of FOIA for the years 2023/24.
2. The Council later confirmed that it did not hold any further information in scope of the request, other than that previously provided and subsequently published on its website.
3. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any further information within scope of the request.
4. The Commissioner does not require any steps as a result of this decision.

Request and response

5. On 7 May 2024, the complainant wrote in the following terms:

"Please update the information in the attached Excel document to cover the financial years from 2009 to 2024, pertaining capital investments made by Cheshire East in the localities listed. Please also indicate and list occurrences of major infrastructure project expenditure.

I would be interested in any information held by your organisation regarding my request. I understand that I do not have to specify particular files or documents, and it is the departments' responsibility to provide the information I require. If you need further clarification, please contact me by email.

I would like the information to be emailed to me in electronic form preferably as an Excel document.

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the act. I will also expect you to release all non-exempt material.

I would be grateful if you could confirm in writing in response to this email that you have received this request. I look forward to your response within 20 working days as outlined by the statute."

6. The Council responded on 31 May 2024 providing information in scope of the request and stated that:

"As required by the local authority accounting standards, we record expenditure and income by type of service or activity; we do not record expenditure and income by location. From previous requests, we have already provided the information we have available for the time periods you have requested. Please see our previous response under reference number 20240507.

We have pulled out from the original information supplied, details of the major infrastructure projects that have taken or are taking place over the 10-year period requested, detailing spend per year."

7. The complainant requested an internal review on 1 June 2024 setting out their reasons and arguments as they believed the Council should be able to provide the requested information.

8. The Council responded on 1 July 2024 and explained the reasons why it did not hold the information requested. It further explained that at the time of the request, information regarding 2023/24, was intended for future publication. However, it could now provide this via a link to the Finance Sub-Committee papers.

Background

9. The complainant had previously requested information in relation to spend by geographical area in February 2024. The Commissioner upheld the Council's explanation that it did not hold the information requested, because expenditure is recorded by service area rather than by geographical location. This can be found in decision notice IC-222499-L7K3¹.

Reasons for decision

10. This reasoning covers whether the Council is correct when it says that it does not hold information within the scope of the request.

The complainant's position

11. The complainant considers the Council to hold information within the scope of their request. They said that:

"Cheshire East Council have already supplied information pertaining to "capital investments" across three localities from 2014 to 2023. I am now simply asking for Cheshire East Council to 'fill in the blanks' relating to capital investments prior to 2014 in Congleton, Crewe and Macclesfield, and capital investments between 2009 to 2024 in all other locations listed, and as per my original request."

The Council's position

12. In its internal review the Council maintained its position that: "We record expenditure and income by service or activity; we do not record expenditure and income by location."
13. The Council further explained that: "Whilst we are unable to analyse all spend by geographical area, the location of certain individual schemes is identifiable by their description. The information disclosed in response to

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4025740/ic-222499-l7k3.pdf>

your previous request (21037233) was only for those projects identifiable as being in the localities of Crewe, Congleton and Macclesfield from their description. A note on the spreadsheet disclosure advised: "We have identified Capital spend on projects in the programme that can be identified at location level."

The Commissioner's position

14. The Commissioner notes that the complainant considers the Council should hold information within the scope of the request as they believe the information is relevant to the Council's work and functions.
15. However, the Commissioner is satisfied that the Council has provided adequate explanation for why it does not hold further information in scope of the request. It has carried out reasonable enquiries with the relevant departments to confirm no further information was held within scope of the request. The Council advised the Commissioner that it was only able to supply income/expenditure by service or activity and can only supply information relating to a location when that location is specified in the title of the project.
16. The Commissioner is not required to prove beyond doubt that the Council do or do not hold information but can only decide based on the civil standard of the "balance of probabilities" that information within the scope of the request is more likely held than not
17. The Commissioner's decision is that on the balance of probabilities, in the particular circumstances of this case, the Council does not hold any information within scope of the request.

Right of appeal

18. 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

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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