

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 23 February 2016

Public Authority: Buckinghamshire County Council
Address: County Hall
Walton Street
Aylesbury
Buckinghamshire
HP20 1UA

Decision (including any steps ordered)

1. The complainant has made a request to Buckinghamshire County Council ("the council") for information about the installation of a speed limit sign. The council disclosed information in response, but the complainant contested that this was not what had been requested.
2. The Commissioners decision is that the council has disclosed all relevant held information that falls within the scope of the request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 19 August 2015 the complainant requested information of the following description:

"Can you please tell me (1) the date when the red road sign that reads "new 30mph speed limit in force" was put up on the first lamppost after the Page Hill Avenue turning (please see attached pic) going out of Buckingham on the A422 Stratford Road. Also (2) the date the 40mph road sign was taken off that lamppost, and also (3) the contractor you used to do the work please."

5. On 24 August 2015 the council responded and disclosed held information. Specifically, it provided the two dates sought by part 1 and part 2 of the request, and the contractor sought by part 3.

6. The complainant requested an internal review on 25 August 2015, and complained that the council had failed to provide the requested information for all 3 parts of the request.
7. The council provided its internal review on 24 September 2015. It maintained that its original response was correct in respect of all 3 parts of the request, and confirmed that no further recorded information was held that would fall within the scope of the request.

Scope of the case

8. The complainant contacted the Commissioner on 27 September 2015 to complain about the information which the council had disclosed in response to his request.
9. The EIR provides a right to recorded information only, and when a public authority receives a request it must consider what information is held that would fall within its scope. Any dispute about the accuracy of the held information falls outside the terms of the EIR, and consequently the Commissioner's jurisdiction. In cases such as this, the Commissioner's investigation is limited to whether further held information is likely to be held that would fall within the scope of the request.
10. The Commissioner therefore considers the scope of this case to be the determination of whether the council is likely, on the balance of probabilities, to hold further recorded information that is relevant to the request.

Reasons for decision

The context of the request

11. The basis of the request is to identify the date on which a 40mph speed limit sign was removed from a specific lamppost, and replaced with a 'New 30mph speed limit in force' sign.
12. It is understood that the former 40 mph zone adjoined a 30mph zone, which was subsequently extended to encompass what was formerly the 40mph zone.

Is the information environmental?

13. Information is "environmental" if it meets the definition set out in regulation 2 of the EIR. Environmental information must be considered

for disclosure under the terms of the EIR. Under regulation 2(1)(c), any measures that will affect, or be likely to affect, the factors referred to in 2(1)(b), will be environmental information. The requested information relates to the change in speed limit on a highway. This can clearly be identified as a measure which may affect factors such as emissions. The Commissioner therefore considers that the request should be dealt with under the terms of the EIR.

Regulation 5(1) – Duty to make information available on request

14. Regulation 5(1) states that any person making a request for recorded information is entitled to have that information communicated to them. This is subject to any exceptions or exclusions that may apply.

The complainant's position

15. The complainant has requested the date on which a new speed limit sign was installed, the date on which the previous speed limit sign was removed, and the specific contractor who undertook this. The council has provided information in response to this comprising two dates (both of which are '18 September 2012') and the responsible contractor.
16. The complainant contests that the two dates are incorrect, and alleges that the new sign was not installed until 2015 (with the former speed limit sign remaining in place until then). In particular, he has referred the Commissioner to the fact that the council's response only advises what the two dates "would have" been based on the commencement of the related Traffic Regulation Order ("the TRO"), and does not actually confirm that the two dates were those in practice.

The council's position

17. The council has defined that when a TRO relating to a speed limit change comes into force, the associated speed limit signs must be changed on that specific date. The council has therefore provided the Commissioner with a copy of the relevant TRO, on which the implementation date of 18 September 2012 is recorded. The council has also confirmed the identity of the contractor that it uses for highway maintenance.
18. The council has confirmed that it has consulted with its contractor, who also maintains that both given dates are correct. The contractor has also confirmed that no other information is held which would be relevant to the request.
19. Additionally, the council has provided the Commissioner with a photograph that was taken by the contractor on 29 August 2014. The

contractor (and council) considers that this photograph clearly shows that the new speed limit sign was in place as of the date of the photograph, and that this disproves the complainant's assertion that the new speed limit sign was not installed until 2015.

The Commissioner's conclusion

20. The Commissioner must decide on the balance of probabilities whether further recorded information is held by the council that would fall within the scope of the request.
21. The Commissioner notes that there appears to be no definitive recorded information that states the actual speed limit signs were changed on 18 September 2015, and the council's (and the contractor's) position appears to be based on the recorded implementation date of the TRO.
22. However, there is no evidence to suggest that further recorded information (i.e. a document which gives differing dates to those provided by the council) is held. The question of whether the date given on the TRO is different to the date on which the two signs were changed in reality falls outside the Commissioner's jurisdiction, which is limited to considering the extent of held information only. On this basis the Commissioner must conclude that no further information is likely to be held.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Andrew White
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