

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 6 May 2014

Public Authority: Calderdale Council
Address: Northgate House
Northgate
Halifax
HX1 1PS

Decision (including any steps ordered)

1. The complainant has requested the identity of the party who would be responsible for the possible demolition Northgate House in Halifax town centre.
2. The Commissioner's decision is that Calderdale Metropolitan Borough Council ("CMBC") does not hold recorded information in respect of this possible demolition.
3. The Commissioner does not require the public authority to take any further action in this matter.

Request and response

4. On 31 July 2013 the complainant made the following request for:

"I would like to request the information as to who is demolishing Northgate House, which is the reason why the estimated cost of £830,000 for the construction of a new plant room and a new staircase in order for the Central Library to function once it has been separated from Northgate house has been factored within Halifax Town Centre Office Strategy, which was put forward to Cabinet on the 18th June 2012."
5. CMBC acknowledged the complainant's request on 7 August and informed him of its intention to have a response delivered by 29 August 2013.

6. On 22 August 2013 CMBC responded to the complainant as follows:

"At the time the Cabinet approved the Halifax Town Centre Office Strategy in June 2012, no decision had been made on the future of the existing Halifax Central library & Archive. Accordingly a cost of £830,000 was identified to separate Northgate House from the existing Halifax Central Library & Archive, in order to allow Northgate House to be vacated and if necessary demolished should a subsequent decision be made to retain the library and archive in its existing location. A decision has subsequently been taken by Cabinet to relocate the library and archive.

The Northgate site, including Northgate House and the existing Central Library & Archive, is currently being marketed for disposal. The purchaser will be responsible for demolition."

7. On 27 August 2013 the complainant asked CMBC to review its response to his information request.

8. On 3 September 2013 CMBC wrote to the complainant informing him of its internal review results. CMBC stated:

"The original response stated, "The Northgate site, including Northgate House and the existing Central Library & Archive, is currently being marketed for disposal. The purchaser will be responsible for demolition."

At no point in the response did we say that Northgate House is not being demolished just that the site is currently being marketed and once sold it will be the purchasers' responsibility for demolition.

Can you please clarify if you are asking for any further information so I can investigate."

Scope of the case

9. The complainant contacted the Commissioner on 11 November 2013 to complain about the way his request for information had been handled.
10. The complainant did not dispute the Council's position that it would be the purchaser of the Northgate site that would be responsible for demolition. Rather, he made a number of assertions concerning the failure of CMBC to provide explanations of information contained in the Halifax Town Centre Office Strategy (HTCOS) or on a page of CMBC's website, now redesigned, which was entitled, 'Proposed New Library and Archive – Key Messages'.

11. The Commissioner considers that requests for information should be read objectively. It is the Commissioner's understanding of the complainant's request that he is only seeking the identity of the party who would, should the need arise, be responsible for the demolition of Northgate House and that he has referenced his request to information which he already has.
12. The Commissioner's investigation was focussed on whether CMBC holds recorded information which relates to the identity of the party who would be responsible for the demolition of Northgate House if this becomes a necessity or a preferred option.

Reasons for decision

Section 1 – Is the information held?

13. Section 1 of FOIA states that:

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
 - (b) if that is the case, to have that information communicated to him."
14. The Commissioner has sought to determine whether, on the balance of probabilities, CMBC holds the information sought by the complainant.
 15. The Commissioner makes this determination by applying the civil test of the balance of probabilities. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held in cases which it has considered in the past.
 16. The Commissioner investigated this complaint by asking CMBC a number of questions about the searches it has made to locate the information sought by the complainant and questions about its possible deletion/destruction. The Commissioner also provided the Council with the reference number which the complainant had supplied when making his complaint.
 17. CMBC's submissions to the Commissioner confirmed that it has sent the complainant all the recorded information it holds, which is relevant to his request. It reaffirmed its position that it will be the purchaser of the site that would be responsible for the demolition of Northgate House.

18. CMBC informed the Commissioner that the site remains unsold and that there has been no interest in it. CMBC cannot identify the possible purchaser of the site or determine what that purchaser may want to do in respect of the site's redevelopment.
19. In view of CMBC's submissions, the Commissioner must conclude that CMBC does not hold recorded information under the terms of the complainant's request. In advising the complainant of this, CMBC has complied with the requirements of section 1 of the FOIA.

Other matters

20. The Commissioner notes that, following its receipt of his enquiry in this matter, CMBC has provided the complainant with a copy of a report which lists the figures and costs associated with the separation of Northgate House from the library and archive. It has provided this information in the hope that it provides explanations of the costs referred to by the complainant.
21. CMBC has also informed the complainant that the £830,000 estimate he referred to in his complaint to the Commissioner, was not the forecasted cost of demolition, but rather, the proposed cost of separating the services of the main building from the library and archive. This cost was factored into the HTCOS because, regardless of what happens with the sale of Northgate House, the implications of what might happen in respect of the separation of services in the future has to be accounted for.
22. The Commissioner must stress that the provisions of the FOIA relate solely to recorded information held by public authorities. There is no requirement in the FOIA for a public authority to answer questions which may or may not relate to the recorded information it holds. Nor is a public authority obliged to create recorded information in order to respond to such questions. If the public authority chooses to answer questions of this nature it will be doing so under its 'normal business' practice and not under the FOIA.
23. The Commissioner notes that CMBC asked the complainant to clarify if he was seeking further information in respect of this request. In his opinion, CMBC's request is indicative of good practice in respect of the FOIA and of its wider customer service.

Right of appeal

24. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

25. 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.
26. 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
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF