

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 February 2014

Public Authority: Transport for Greater Manchester
Address: 2 Piccadilly Place,
Manchester M1 3BG

Decision (including any steps ordered)

1. The complainant has requested information relating to a bin store that was built near to a metro link station, residential and commercial properties.
2. The complainant has complained that the information provided was selective and incomplete. The Commissioner's decision is that Transport for Greater Manchester (TfGM) does not hold any further relevant recorded information and has dealt with the request correctly in accordance with section 1(1)(a) of the FOIA.
3. The Commissioner does not require any steps to be taken as a result of this decision notice.

Request and response

4. On 11 March 2013, the complainant wrote to TfGM and requested information in the following terms:

"All the communications (paper, electronic and documented telephone discussions) within Metrolink and between Metrolink and their contractor, between the contractor and the [redacted] pizza proprietor regarding the building of a bin store at [redacted] Road station, which led to building the bin store at the site, instead of the indicative site of a Cycle parking on the station map before the building (a copy of the original plan/drawing was later requested on 28 March 2013). Any prior

consultation before the decision to build the bin store with the council, residence or commercial bodies in the area."

5. TfGM responded on 10 April 2013 and provided some information within the scope of the request, namely:

- Correspondence between the complainant and TfGM.
- Correspondence between TfM-MCC-MPACT.
- redacted] Road plan.pdf

6. On 16 April 2013 the complainant requested an internal review stating:

"I feel certainly there some recent communications between Manchester city council planning department and the Metro link/contractor. The emails chain is not complete specifically regarding the finding out of the owner of the Bin and the nature of the complaint regarding some damage caused by the contractor. I also some couple of years ago I have made some contact regarding this issue, the name of the person (Neal Jarman, technical director, Advanced planning group and that it would be very beneficial to all.

The above is only an example and I await for confirmation of your final disclosure.

7. TfGM responded on 19 June 2013, stating:

"[Redacted] was asked to retrieve all communications from TfGM's Stakeholder database which made reference to the bin store. The documentation supplied by [redacted] as part of this review did not reveal any correspondence or documentation in addition to those previously supplied by [redacted] in her original response.

I also met with [redacted] to discuss the content of your email to me dated 30 April 2013 in which you brought [redacted] email (dated 9th May 2011) to my attention. Miss White confirmed to me that she did not have any associated email correspondence with either [redacted] or MPT on this topic. Upon receipt of the email she did discuss the matter internally with TfGM's stakeholder team who were aware of your concerns and were tasked with dealing with your complaint. [Redacted] was able to supply copies of the land registry information about the ownership of the site of the bin store obtained by GMPTE in January 2010, and additional photographs of the bin store supplied by MPT which I have enclosed for your attention."

It stated that it did not hold any additional information other than the land registry search results and photographs provided to the complainant.

Scope of the case

8. The complainant contacted the Commissioner on 25 September 2013 to complain about the way his request for information had been handled.
9. Specifically he was concerned that some correspondence had been omitted and that the information provided had been selective.
10. The Commissioner considers the scope of this case to be to determine if TfGM holds any further information within the scope of the request.

Reasons for decision

Section 1 – general right of access

11. Section 1(1)(a) 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 of the description specified in the request.
12. 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, applies the civil standard of the balance of probabilities. The Commissioner must decide whether on the balance of probabilities the public authority holds any further information which falls within the scope of the request (or was held at the time of the request)
13. The complainant has argued that TfGM has not provided copies of correspondence with Manchester City Council (Environmental Health, refuse department, planning department, high ways department) and with a senior planner. He also states that TfGM should have communications regarding a complaint he made in 2011, and the communications with a Pizza company.
14. During his investigation, the Commissioner asked TfGM to explain its position.
15. TfGM explained that if an individual requests copies of information it holds in respect of his enquiries to its team, it searches the Stakeholder and Communications database using the contact details or other key words. This search would identify any records of the information held relating to the enquiry. This record would indicate the details of TfGM's engagement with the individual and it is able to produce copies of any

correspondence, summaries of telephone conversations and other relevant information.

16. Standard procedure for the Metrolink Stakeholder Engagement team is that all engagement with an individual is recorded on this database. The engagement may take the form of , for example, telephone conversations, emails and/or letters from and to the contact, home or business premises visits, meetings, presentations, drop-in sessions, mail drops and so on.
17. TfGM stated that whilst it appears that this type of search was completed in respect of this request, the colleagues who dealt with this matter have now left TfGM so it could not confirm what specific action they took.
18. TfGM did however attach an email from the officer who dealt with the matter in relation to the complainant's request which illustrates that a search of the stakeholder database was done in accordance with the procedure outlined above.
19. TfGM further explained that most information would be from networked resources and emails-as detailed above. However, as stated above the colleagues who dealt with this matter have now left TfGM. Consequently it could not confirm whether some of the information supplied to the complainant had been held on a personal computer. This should not have been the case as such officers are not issued with TfGM laptops and not authorised to bring their own devices.
20. Whilst most information would be electronic and it would appear that in this case it was, it would be possible for there to be other means of correspondence with a contact such as letters or visit. If this were the case, details of these would be linked electronically (in terms of letters, for example) to the database or at least recorded on the database as a house visit, for example. Copies of any manual letters would be filed electronically on a shared drive and should be linked to the database.
21. The Stakeholder Engagement Team work in accordance with TfGM standard policies. It is extremely unlikely that any of the recorded information ever held relevant to the scope of the complainants request has been deleted/destroyed.
22. There is no evidence to suggest that any information relevant to the complainant's request has been deleted.

23. TfGM explained that its team is project based and therefore it needs to retain information¹ often for many years, for example, engagement with a resident or business may commence during the project public consultation period and could continue over a number of years until the project is delivered.
24. There are no statutory requirements upon TfGM to retain the requested information but it is retained for business efficiency purposes to inform the project leaders during delivery of any approved statutorily authorised scheme.

Conclusion

25. The Commissioner acknowledges the complainant's concerns that TfGM has not provided him with all the information he requested as stated in paragraph 14. In addition, the complainant has provided the Commissioner with a copy of an email which he stated had not been provided to him at the time of his request.
26. The complainant has further stated that some of the information provided to him is false.
27. The Commissioner has considered the representations made by the complainant and has reviewed the information provided by TfGM in response to his enquiries. Although it is possible that TfGM did not provide all the information at the time of the request, it was disclosed at the internal review stage. The internal review stage is an opportunity for a public authority to re-consider its response, and provide further information when applicable.
28. When further information is provided in response to a request, this is not indicative of a public authority deliberately misleading a complainant. Therefore, the Commissioner does not consider that this aspect of the complainant's argument is substantive.
29. In addition, the Commissioner cannot comment on the veracity of the information provided. Where the complainant has disputed the facts contained in the information provided it is not possible to make a judgement on that issue.

1

<http://portal/departmental/is/information services/Documents/TfGMRetentionScheduleV1.0.pdf>

30. In view of the submissions made by TfGM, the Commissioner has concluded that, on the balance of probabilities, TfGM does not hold any additional information relevant to the request.

Right of appeal

31. 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

32. 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.
33. 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

Pamela Clements
Group Manager, Complaints Resolution
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF