

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 2 March 2023

Public Authority: Lincolnshire County Council
Address: County Offices
Newland
Lincoln
LN1 1YL

Decision (including any steps ordered)

1. The complainant has requested information about Lincoln Cathedral and arrangements for care of the Magna Carta. The above public authority ("the public authority") denied holding some of the requested information and relied on section 31 of FOIA (law enforcement) to withhold the remainder.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority does not hold the information requested by parts [1] to [5] of the request. In respect of part [6], he is satisfied that section 31 is engaged and that the balance of the public interest favours maintaining the exemption.
3. The Commissioner does not require further steps to be taken.

Request and response

4. On 12 September 2022, the complainant wrote to the public authority and requested information in the following terms:

"[1] Please produce all available materials, information, documents, images, drawings, maps, including those held electronically of underground tunnels, rooms, chambers, paths, burial sites, temples, alters, or other such means of access or egress from to and from and underneath Lincoln Cathedral.

- “[2] Please produce all available information including but not limited to financial records, images, documents, facilities etc within and underneath Lincoln Cathedral for secret society use including but not limited to the Freemasons.
- “[3] Please produce all available information relating to known uses of any of the above mentioned in request item [1], including but not limited to names of users, dates of entry, purpose of use, renovations made, items removed, inventory etc.
- “[4] Please produce all available information relating to the closure, filling, sealing or other means of removing access to any of the above mentioned in request number [1].
- “[5] Please produce all available information relating to the ownership of the above as mentioned in request item [1].
- “[6] Please produce all information relating to the Magna Carta not previously made public following past audits carried out.
5. The public authority responded on 13 September 2022. It stated that it was not responsible for the running of the Cathedral and, as such, held no information.
6. Following an internal review the public authority wrote to the complainant on 10 January 2023. It confirmed that it did hold some information within the scope of element [6], but it relied on section 31 of FOIA to withhold it. It denied holding any further information.

Reasons for decision

Elements [1]-[5]

7. The public authority is not the owner of Lincoln Cathedral and therefore the Commissioner considers that it has no business need for any of the information requested in respect of elements [1]-[5] – except inasmuch as that information would also fall within the scope of element [6].
8. The complainant has put forward no compelling argument that would undermine the public authority’s assertions that it does not hold any information.
9. The Commissioner is therefore satisfied that, on the balances of probabilities, the public authority does not hold any further information within the scope of the request.

Element [6]

10. Section 31 of FOIA allows a public authority to withhold information whose disclosure would either make it easier for someone to commit a crime or would make it more difficult for the perpetrator of a crime to be identified.
11. Although he would normally expect to be provided with (or to inspect) a copy of any information being withheld, the public authority asked him to consider the arguments without seeing the information itself. In the particular circumstances of this case, the Commissioner is satisfied that such an approach would be proportionate.
12. The public authority explained that the information it held related to processes used to protect and preserve one of only four original copies of an 800 year-old document which is of great historical significance, both in the UK and across the world.
13. The public authority further explained that the information:
 - “includes detailed information about the measures which the Council takes to ensure the safety and security of the Magna Carta, including [redacted], auditing, security and transportation, electronic and physical security, details of conditions and housing including periods of dark storage, off site location details when not on display, personnel, insurance and conservation measures.
 - “The information regarding the care and management of the Magna Carta is known to only a very small number of Council employees, in order to further prevent any security risk. The Council consider that even the process of collating and providing this information may prejudice the safety of the Magna Carta and the personnel who hold the information.”
14. Having considered what the complainant requested, the Commissioner is of the view that any information the public authority did hold would involve sensitive details relating to the storage, security and conservation of the Magna Carta. An audit would, of necessity, cover such matters as the owner and insurer of document would wish to be reassured that it was being appropriately protected.
15. For reasons which will be discussed in more detail below, the Commissioner is of the view that the vast majority, if not all, of the information being withheld will fall within the exemption. Whilst there is a possibility that some of the information within scope may be less sensitive, he would note that:

- a) Any of the withheld information which is already in the public domain would be exempt under section 21 of FOIA (reasonably accessible) even if not covered by section 31.
 - b) Based on experience of other cases, much of the information which, in itself, is less sensitive, is also likely to be meaningless when separated from the other more sensitive information and so would not fall to be disclosed anyway.
 - c) Any information not otherwise exempt (if indeed there is any) is unlikely to be of significant public value.
16. For these reasons, the Commissioner has decided that he can make a decision without access to the information in question.
 17. Turning to the applicability of the exemption, the Commissioner is satisfied that information relating to the security arrangements for the Magna Carta and to the preservation of the document will engage the exemption.
 18. Providing details of the security arrangements will make those arrangements less effective. Whilst the public would expect that such an important document would be subject to some form of security, they are unlikely to be aware of the various levels of security and what each one involves. Maintaining effective security relies on being able to preserve a certain level of ambiguity about exactly what arrangements are in place. The more a would-be criminal knows about the measures in place to deter an offence, the easier it would be for them to take their own counter-measures to avoid detection.
 19. It is relevant to note here, as the public authority pointed out, that an attempt was made in 2019 to steal the copy of the Magna Carta held at Salisbury Cathedral – so the possibility of theft is clearly not just a purely hypothetical consideration.
 20. Equally with preservation measures, the Commissioner considers that knowing exactly what measures are in place would allow a person to counter those measures in such a way as to allow them to damage the document. There have been a number of high profile incidents in recent months in which various works of art have been damaged or defaced. Whilst the Commissioner is not aware of any specific threat to the Magna Carta, once again, the possibility is far from remote.
 21. The Commissioner is not suggesting that the complainant is such a person – only that, once information is disclosed under FOIA it is considered to have been made available to the world at large. The public authority will no longer have any control over future dissemination of

the information and cannot prevent it from falling into the hands of someone who might wish to do harm to the Magna Carta.

22. The Commissioner is therefore satisfied that section 31 of FOIA is engaged.

Public interest test

23. The Commissioner recognises that there is a public interest in the Magna Carta and that the public will want to be reassured that the document is being well looked after.
24. However, in the circumstances of this case, the Commissioner is satisfied that any public interest in disclosure is easily outweighed by the very strong public interest in ensuring that this historical document is protected for future generations. Disclosing information which might place the document at risk is not in the public interest.
25. The Commissioner is therefore satisfied that the exemption is engaged and the public interest favours maintaining it.

Other matters

26. The Commissioner notes that it took the public authority four months to complete its internal review. There is no statutory deadline for completing internal reviews, but the FOIA Code of Practice states that they should normally take no longer than 40 working days.

Right of appeal

27. 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

28. 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.
29. 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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF