

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 28 April 2016

**Public Authority:** Bridgnorth Town Council  
**Address:** College House  
St Leonard's Close  
Bridgnorth  
Shropshire  
WV16 4EJ

#### Decision (including any steps ordered)

---

1. The complainant has requested information with regards to the ownership of certain traffic islands. Bridgnorth Town Council (the council) stated that it did not hold any information.
2. The Commissioner's decision is that the council does not hold any information within the scope of the request. The only information that was provided was actually held by another council and had already been obtained by the requestor from that council.
3. As the Commissioner has determined no other information is held, and the complainant already holds a copy of the expired agreement, the Commissioner does not require the council to take any steps.

#### Request and response

---

4. On 26 November 2015 the complainant wrote to the council, providing some background information and then made the following request:

*"Please therefore consider this as a Freedom of Information request to see all documentation regarding the current lease agreement between Bridgnorth Town Council and Shropshire Council for the traffic islands Bandon on the A442, Hermitage island on the A454, Ludlow island on the A458 and Kidderminster island on the A442."*

5. The council responded on the 27 November 2015 to advise that it does not hold any documents in relation to this request. It explained that like many other district/ county councils around the country, roundabouts were handed over to Town and Parish Council's to maintain many years ago. This is the case herewith Bridgnorth District Council and Shropshire Council. The council's budget and staff, assisted by sponsorship, maintain these areas.
6. On the same day, the complainant wrote to the council requesting an internal review, as he considered the council must hold some documentation and raised the following:

*"You stated on 19th November that the roundabouts in question are leased to the Town Council. Now you are claiming they were handed over to the Town Council many years ago to maintain, but there are no documents. Are they leased or are they not leased to the Town Council? If not, please explain why you said they were.*

*As Town Clerk you should have at least a fundamental knowledge of Law, in which case you will be aware of the following:*

*If they are leased, legally there has to be documentation to show that.*

*If they were handed over, and the ownership of the Freehold land was passed to the Town Council, legally there has to be documentation.*

*You claim the Town Council now has a duty of care because of the situation. That is a legal obligation and obviously cannot be transferred without legal documentation.*

*You say the Town Council is obtaining revenue by allowing advertising on this property. In order to do this you must have legal proof of ownership of the property."*

7. The council responded on the 11 December 2015, it confirmed that it did not hold any documentation relevant to the request stating: *"...like many other district/county councils around the country roundabouts were handed over to Town and Parish Councils to maintain many years ago"*
8. On the 11 December 2015, the complainant advised the council that he had obtained a licence agreement, from Shropshire Council's legal department showing a maintenance agreement from January 2002, which was for five years, therefore now expired.

## Scope of the case

---

9. The complainant contacted the Commissioner on 24 December 2015 as he was not satisfied with the council's response that no information was held.
10. The Commissioner considers the scope of the case is to determine whether the council holds information relevant to the scope of the request.

## Reasons for decision

---

11. Section 1 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 within the scope of the request, and if so, to have that information communicated to him.
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 to decide whether the council holds any further information which falls within the scope of the request (or was held at the time of the request).
13. The council has explained to the Commissioner that it is the clerk who would be best placed to know what information was held at the council.
14. During the Commissioner's investigation, the council did approach Shropshire Council to see if it held any information falling within the scope of the request that could be provided to the complainant. On the 14 April 2016, Shropshire Council provided the council with a copy of a licence agreement dated 28 January 2002, but this is the same one already held by the complainant which he had previously obtained from Shropshire Council, as mentioned in paragraph 8 of this decision notice.
15. The council advised that this is the only document that Shropshire Council was able to locate.
16. As this licence agreement expired in 2007 the Commissioner asked the council whether it held a subsequent licence agreement, but the council has explained that it only has a verbal agreement with Shropshire Council to continue with the expired agreements terms.

17. The council has confirmed to the Commissioner that there are no emails or other written documentation recording this verbal agreement. They have simply continued to use the expired agreement without renewing it.
18. The council states that if it held any other information it would be in its archived storage, but on checking it, it did not even hold a copy of the lease agreement that Shropshire Council had provided it during the Commissioner's investigations.
19. On review of this request and considering the council's explanations, it seems plausible that the council is continuing to use the licence agreement that had expired in 2007. The Commissioner does not see any reason as to why the council would try to withhold a more up-to-date document. In fact, it would surely be in the council's favour to provide more current documentation, if held, with the complainant questioning the council's legality over the roundabouts.
20. Therefore, on the balance of probabilities, the Commissioner finds that the council does not hold any information falling within the scope of the request. The council were under no obligation to check with Shropshire council as to what they may have held on the matter, but the Commissioner notes that this was likely to have been done in an effort to satisfy its obligations under section 16 of the Act in providing help and assistance to the requestor to obtain the information sought.
21. The Commissioner appreciates why the complainant would expect there to be details of a current agreement held. The complainant has also asked the Commissioner to consider whether ownership of land has to be in writing by law and transfer of legal responsibility has to be recorded appropriately. However, it is outside the remit of the Commissioner to decide on the legalities of such things. If the council are continuing to use an expired agreement, which they have advised they are, the Commissioner is unable to comment further on this.

## Right of appeal

---

22. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

23. 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.
24. 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**