

**Freedom of Information Act 2000 (FOIA)  
Environmental Information Regulations 2004 (EIR)**

**Decision notice**

**Date:** 24 July 2017

**Public Authority:** Northamptonshire County Council  
**Address:** County Hall  
Northampton  
Northamptonshire  
NN1 1ED

**Decision (including any steps ordered)**

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1. The complainant has requested information from Northamptonshire County Council ("the Council") about a complaint made to a contractor used by the Council. The Council disclosed information in response. The complainant contests that further relevant information is held by the Council.
2. The Commissioner's decision is that the Council has disclosed all relevant held information.
3. The Commissioner does not require the public authority to take any steps.

**Request and response**

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4. On 15 October 2016, the complainant wrote to the Council and requested information in the following terms:

*I would also like to issue a formal Freedom of Information request for any information regarding communications between NCC, SNC, and KierWSP regarding this matter... [Request 1]*

5. The Council responded on 11 November 2016 and disclosed further information.
6. On 16 November 2016, the complainant provided clarification about what information the request sought:

*None of the information supplied relates to the formal complaint I raised against the employees of KierWSP.*

*While they are employed by a separate company, when they act as contractors, working for a local council, they are still subject to FOI requests for information.*

*I was informed by [redacted name] that this complaint had been dealt with, so there must be some documentation relating to this, both between KierWSP and NCC, as well as between myself and NCC/KierWSP. [Request 2]*

7. The Council responded on 6 December 2016. It disclosed information.
8. On 13 December 2016 the complainant requested an internal review on the basis that further information was held.
9. Following an internal review the Council wrote to the complainant on 12 January 2017. It stated that all relevant held information had been disclosed.

## **Scope of the case**

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10. The complainant contacted the Commissioner on 12 January 2017 to complain about the way his requests for information had been handled. The complainant specifically contests that further relevant information is held.
11. The Commissioner notes that the complainant has requested information that would in part relate to a complaint that he has submitted. This decision only relates to that information which is not the complainant's personal data, and to which a separate right of access is provided under the terms of the Data Protection Act 1998.

12. The Commissioner therefore considers the scope of this case to be the determination of whether the Council has complied with section 1(1) of the FOIA and regulation 5(1) of the EIR.

## Reasons for decision

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### Is part of 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 elements referred to in 2(1)(a), will be environmental information. The requested information (and the information disclosed in response) partly relates to a traffic assessment undertaken as part of a planning application. The Commissioner considers that such information would fall under the terms of the EIR.

### Section 1(1) of the FOIA and regulation 5(1) of the EIR – General right of access to information

14. Section 1(1) of the FOIA and regulation 5(1) of the EIR provide that any person making a request for information is entitled to have that information communicated to them. This is subject to any exemptions in the FOIA or exceptions in the EIR that may apply.

### The complainant's position

15. The complainant has informed the Commissioner that prior to his information requests he submitted a complaint against specific employees based in KierWPS. The subject of this complaint was the employees' consideration of a traffic assessment, of which the complainant had previously raised concerns about.
16. The information disclosed in response to the information requests does not include any documentation relating to the consideration and outcome of this complaint. The complainant contests that some such documentation must be held.

### The Council's position

17. The Council has advised the Commissioner that it has treated each request separately, and has provided submissions on this basis.

### *Request 1*

18. The Council considers this request to seek all correspondence between itself, KierWSP, and South Northamptonshire Council that relates to the subject of the complaint.
19. The Council has informed the Commissioner that it has a Highways Contract in place between itself and KierWSP. The responsibility for responding, holding, and recording information about relevant planning applications rests with KierWSP as part of a data sharing agreement. The request was therefore forwarded to KierWSP in order for searches to be undertaken for relevant information.
20. All information relating to a planning application is held electronically within a single folder. In response to the request, search terms applied included the planning application number (which is present on all correspondence), 'Tove long stay car park Towcester', and 'Tove long stay car park Northampton Road'. The information that was identified was disclosed in response, and no further relevant information is known to be held.

#### *Request 2*

21. In this request the complainant clarifies that he seeks documentation (including correspondence between himself, Council, and KeirWSP) relating to the consideration and outcome of the complaint made to KeirWSP.
22. The Commissioner has asked the Council to clarify why no further information about the complaint is held besides that already disclosed (which the Commissioner understands to be correspondence to and from the complainant). The Council has informed the Commissioner that, although discussions took place with the specific employees, no fault was identified that would require the complaint to proceed and an internal record to be made. It is for this reason that no information about the consideration and outcome of the complaint is held. The Council has further explained that should a fault have been identified, the discussions would have been stopped and a meeting then arranged so that that notes could be created before being turned into a formal report.
23. The Council has confirmed that all relevant correspondence would be held electronically, and searches were undertaken using the complainant's name, email address, and complaint title as keywords. The information that was identified was disclosed in response, and no further relevant information is known to be held.

#### The Commissioner's conclusion

24. 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 two requests.
25. It is noted by the Commissioner that the information requests have been made following a course of correspondence between the complainant, Council, and contractor in relation to the subject of the complaint, and then the complaint itself.
26. Having considered the Council's submissions, the Commissioner recognises that the relevant information is held electronically and in a centralised manner. The Commissioner also notes that logical searches for information have been undertaken in respect of both requests, and that the retrieved information has been disclosed. Whilst it is recognised that the complainant made these requests in the expectation that documentation about the consideration and outcome of his complaint was held, the Council has provided a reasonable explanation for why no such information is held.
27. Having considered the above, there is no evidence available to the Commissioner that indicates that the Council's response to both requests does not comply with section 1(1) of the FOIA or regulation 5(1) of the EIR.

## Right of appeal

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28. 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)

29. 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.
30. 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**