

Business Change and Information Solutions
Sheffield City Council, PO Box 1283, Sheffield, S1 1UJ
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3rd April 2018

Dear Mr Dalton,

I am writing in connection with the Freedom of Information request you submitted on 16th October 2017 (our reference 1056) and subsequent request for internal review.

Initially please accept my apologies for the protracted delay in response to your request for internal review. The Council does endeavour to provide a response to internal reviews within 20 working days, however upon occasion a review can be delayed as has occurred with this response. Unfortunately due to a number of factors we have been significantly delayed in providing responses to internal reviews.

In your request, you specifically asked for the following information:

I would like to request a full list of locations where any of the 14 "engineering solutions" have been used in relation to street trees and highway repairs.

Following a request for clarification for the timescale over which you were hoping to obtain information you noted:

I would like to know full details (location, type of solution, cost etc) of all engineering solutions implemented since the beginning of the Streets Ahead contract with Amey.

I have carried out an Internal Review of the handling of your request. Please take this letter as the response to your request for an Internal Review.

The intention of an internal review is to consider if we handled your response in accordance with the law and to consider if any decisions made, for example to refuse information, were correct and still apply.

In my review of the processing of this request I have considered:

- Your original request
- The response to your request
- The information requested

Time for Compliance

Section 10 – Time for compliance with request

(<http://www.legislation.gov.uk/ukpga/2000/36/section/10>)

Section 10 of the Freedom of Information Act states that Sheffield City Council must respond to requests made under the Freedom of Information Act within 20 working days of receipt. In this case, your request was received by Sheffield City Council on 16th October 2017 which was responded to on 15th November 2017. This response was provided within 20 working days, therefore, I am satisfied that Section 10 of the Freedom of Information Act was correctly complied with in this case.

The exemption(s) which were applied to the information you requested

Section 17 – refusal notice

(<http://www.legislation.gov.uk/ukpga/2000/36/section/17>)

Section 17 of the Freedom of Information Act requires the Council to state and identify the exemption being applied, together with noting the reasons why the exemption applies. The Council is also required to detail our internal review procedure and highlight the right of appeal to the Information Commissioner's Office (ICO).

Your right of appeal was detailed in our response and no exemptions were applied in this case:

Response to further comments in your request for review

Within your request for review you noted some specific concerns as detailed below:

I do not understand how a local authority can carry out highway maintenance work without creating some kind of traceable record for it. Local authorities have a duty to remain transparent and accountable which means keeping clear records of everything they do. Given that the ICO is currently investigating you for a similar FOI request that you failed to supply a satisfactory answer to, I hope that you treat my request seriously and aim to provide a satisfactory answer. Why it took you 4 weeks to inform me of this paltry response I do not know. I look forward to receiving a full response to my request.

In respect to these comments initially I have noted your dissatisfaction with the length of time taken to provide a respond to your request. I appreciate that this was not as prompt as the Council would hope; but on occasion due to the

number of requests being handled at the time, we do have to work and process cases in accordance with the deadline date.

Further to your additional comments it appears relevant to revisit the Council's initial response where we noted:

Where trees can be retained by the application of engineering solution, these work are undertaken as part of the Highway Maintenance contract and the tree remains insitu. Details of the work undertaken around such trees is not recorded in an electronically searchable format and we are, therefore, unable to provide the information requested.

As you may well be aware the Council holds a Highways Maintenance contract with Amey and this contract includes the management of highway trees. As per your request, the Council's contract does allow for the use of specific engineering solutions in respect to the retention of existing trees on the highway network. As noted in our response, we do not hold a specific electronic record or coding on our asset management system to highlight where a tree has been retained using one of the "engineering solutions". In such a case there would be no specific business or statutory requirement for the Council to hold or maintain such a record. Certainly in respect of those engineering solutions which can be completed without further cost to the Council, as these would not require itemised billing, we would not hold any records in that regard.

It is also the case that the most commonly employed engineering solutions, such as reprofiling of the sub-grade beneath a footway, exploratory root excavation, or minor root pruning can be undertaken with no visual impact above ground on a completed and resurfaced street, and there would be no operational benefit to recording any of these practices.

You note your hope for the Council to be transparent and accountable including "keeping clear records of everything they do".

In response to this, I can advise that in terms of transparency and accountability, the Council and Amey both hold full and highly detailed asset information on every one of our Highway Trees, including comprehensive maintenance records, all planned and completed works and all historical condition surveys.

However, the functionality of our asset management systems means that although we can drill down and provide highly detailed and fully accountable information on a tree-by-tree basis, limitations within the system mean that we are not currently able to produce the kind of overall summary metadata being routinely sought by protest group activists.

We have recently implemented a new data field to record the surrounding surfacing material and ground conditions into our arboricultural condition and

safety surveying pick lists used by inspectors on site, and plan to capture this information over the coming 5 years for all highway trees, however this will still not be searchable in a large scale metadata format as you have requested.

At present, neither the Council nor Amey record the means of retaining trees if the method is one that is included within the contract. Data is only kept to record the reasons for tree replacement. There is no specific contractual requirement for Amey to detail all applications of such a solution or record this in a specific searchable record on our shared asset record.

Even if this dataset did exist, our systems do not have the functionality to create a metadata summary of this information for you, and as such it would have to be created by means of a manual review of individual records, which would take well in excess of the cost limit for dealing with FOI requests under Section 12 of the Freedom of Information Act 2000. For ease of reference, the cost limit (18hours or £450) is specified in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (SI 2004 No. 3244). It would additionally be considered manifestly unreasonable under the grounds of cost under Regulation 12(4)(b) of the Environment Information Regulations 2004 (EIR). Due to the disruption to the Council in managing such a review of tree records we consider that the public interest lies in the application of the exception in this case; please see the details below. In this case we would have to review all records held across the duration of the Streets Ahead contract in an attempt to collate any relevant records that were held.

Public Interest considerations for application of 12(4)(b) EIR

Factors supporting disclosure:

- Compliance with FOI and EIR including the public authority obligation to be transparent and the presumption under EIR for disclosure of Environmental Information;
- There is also public interest in transparency and accountability to ensure that public funds are being used effectively in the management of highway trees and attempts to retain them;
- Facilitating public understanding of the use of the 14 engineering solutions in the retention of highway trees;
- The Council has been under significant scrutiny in regard to the management of highway trees and disclosure of any records held may reassure the public that engineering solutions are being actively pursued.

Factors supporting non-disclosure

- There is no specific record or searchable field which would identify such utilisation of engineering solutions therefore all tree assets (36000)

- records would need to be considered and reviewed to extract any relevant records at significant cost in terms of officer time;
- The details of any identified records would likely be piecemeal and show only limited application thereby not provide a full reflection of the utilisation of the associated engineering solution.

The Council believes that in this instance the public interest in maintaining the exception outweighs the public interest in processing your request as we consider the disruption and cost in reviewing all relevant records which may theoretically hold reference to the engineering solution would be such to override any wider considerations in favour of disclosure. As a result the exception is engaged and no disclosure is relevant in this case.

In regard to your comment regarding the Information Commissioner's Office the Council does not believe that previous investigations have specific bearing on the handling of this request.

Review Decision - Conclusion

Taking the above into account, I am satisfied that the following exemption/exception applies to possibility that related records may be held:

- Section 12 FOIA - Exemption where cost of compliance exceeds appropriate limit
- Regulation 12(4)(b) - Manifestly unreasonable, on ground of cost

As the purpose of an internal review is to consider the processing of an initial request, including the application of exemptions it is appropriate in this case to amend our initial decision by introducing the application of the exemption/exception above. Due to the potential that some records may be held by the Council relevant to this request we do have to cite the application of these refusals as we are unable to even locate and subsequently review, and extract any relevant records, if held, on cost grounds.

If you are dissatisfied with the outcome of your internal review, you are entitled to contact the Information Commissioner's Office and they will consider whether your complaint is eligible for further review. The Information Commissioner's details and guidance is available on the website at www.ico.org.uk.

Kind regards

Mark

Mark Knight

Information Management Officer
Information Management

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