

Your ref:
My ref: ML/MB36725

By Email
Mr Wayne Pearsall

request-358258-99dbe935@whatdotheyknow.com



Meena Lekhi
Solicitor

www.warwickshire.gov.uk/wls

29 December 2016

Dear Mr Pearsall

**RE: ENVIRONMENTAL INFORMATION REGULATIONS 2004 – INTERNAL REVIEW
OUTCOME (REF. 1878728)**

I am writing to provide you with the outcome of the internal review.

In undertaking this review, I have considered your request for information received on 11 October 2016, the Council's response dated 21 October 2016 and your request for an internal review received on the same date. I have also taken into account the Council's obligations under the Environmental Information Regulations 2004 (the "EIRs") and the Information Commissioner's Guidance on "What is environmental information" (Version 4.1) and "Determining whether information is held" (Version 3.0).

How your request was dealt with

You requested the following information:

"Please supply all information from discussions with Newbold and Tredington in relation to the implementation of Service 152".

Your request was acknowledged on 17 October 2016. You were advised that it was being considered under the EIRs and that a response was due by 8 November 2016. Enquiries were made with the Council's Transport Operations Service in order to determine whether the information you requested was held. It was ascertained that telephone discussions took place with representatives from Newbold and Tredington but these were not recorded and therefore no information was held. This was explained to you in the Council's response and regulation 12(4) (a) was cited as a public authority is not required to disclose information it does not hold.

In your request for an internal review, you suggest that there must be some form of notes as the Council had referred to conversations with the school, and accordingly you asked for all notes or other materials held in relation to these conversations.

Internal review outcome

Your request was considered under the EIR regime because the information you requested amounts to "environmental information".



Information is environmental if it meets the definition set out in regulation 2 of the EIRs. In particular, regulation 2(1) (a) covers the state of the elements of the environment including water, soil, land and landscape, and regulation 2(1) (c) provides that information is environmental where it is on measures (including administrative measures) such as policies, plans and activities affecting or likely to affect elements of the environment.

The information you requested constitutes environmental information under regulation 2(1) (c) as it concerns a measure or activity i.e. the implementation of a school bus service, which affect or are likely to affect elements of the environment referred to in regulation 2(1) (a) namely land and landscape.

Under regulation 5(1), a public authority that holds environmental information has a duty to make it available upon request. However, regulation 12(4) (a) states that a public authority may refuse to disclose information to the extent that it does not hold that information when the request is received.

When the Council receives a request, its first task is to determine whether it holds the information, and in many cases it will be simple to locate the information by making enquires with relevant departmental contacts. Given that your request related to school transport, enquires were made with Transport Operations, in order to determine whether the information you requested was held. It transpired that while discussions about the implementation of Service 152 took place with the school these were not recorded.

The definition of environmental information encompasses recorded information in any material form however there is no obligation on public authorities to create information if it does not exist. I am satisfied that given the nature of your request it was logical to contact Transport Operations as they would be best placed to identify whether or not the requested information was held. In this instance, there was a recollection of the discussions that took place with Newbold and Tredington regarding a change to Service 152 however, there was no business need to record the information, nor is it common practice to record every telephone call due to the large volume of calls handled by operational staff.

As part of this review, I have revisited your request with Transport Operations and confirm that they do not hold any information whatsoever in respect of the discussions with this school whether in note form or otherwise. In your request for an internal review, you mention the Council's statutory obligations to consult in respect of home to school transport. Please note that while the Council has certain legal duties to provide home to school transport for children and young people, by way of clarity, there was no legal obligation upon the Council to consult in respect of the change it introduced to Service 152. The route had previously operated using two taxis and there was a need to change one of the taxis to a bus, in order to accommodate for an increased number of pupils however, this was not a change that necessitated a legal duty to consult.

Conclusion

In conclusion, I have determined that the Council handled your request correctly and the information you requested is not held by this authority.

The Council aims to complete an internal review within 20 working days but in some cases it can take up to 40 working days. We are currently experiencing a high volume of work and it has taken us slightly longer than our usual times scales to complete this review for which I apologise.

If you are not satisfied with the outcome of the review you may appeal to the Information Commissioner's Office, at the following address:

FOI Compliance Team (complaints)
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Tel: 0303 123 1113

Yours sincerely

A handwritten signature in black ink, appearing to be 'Meena Lekhi', written over a light blue horizontal line.

Meena Lekhi