

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 5 July 2023

**Public Authority:** London Borough of Waltham Forest

**Address:** Waltham Forest Town Hall  
Forest Road  
Walthamstow  
E17 4JF

#### **Decision (including any steps ordered)**

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1. The complainant has requested information from the Council regarding correspondence with various charities. The Council disclosed some information to the complainant, however the complaint is that it has not disclosed all information it holds within the scope of the request.
2. The Commissioner's decision is that the Council has failed to fully consider all the information specified in the complainant's request, therefore it has not complied with the requirements of section 1 of FOIA.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation:
  - Issue a fresh response to the complainant disclosing all information it holds within the scope of the complainant's request.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of FOIA and may be dealt with as a contempt of court.

## **Request and response**

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5. On 14 June 2022 the complainant made the following request. This related to an earlier request made by the complainant:-

"I would like a copy of all correspondence between the charities you list, including their responses.

I've not been supplied with this, just paragraph of what was supposedly wrote, no names of the charities, no full email to show it was sent, no responses.

By correspondence I mean a copy of the ALL letters and emails sent and received from the charities. You told me you consulted and listened to their opinion, prove to me who you contacted, what you wrote and what they replied back with please."

This related to an earlier request made by the complainant in relation to disability groups consulted by the Council in relation to low traffic neighbourhoods (LTNs).

6. The Council responded on 30 June 2022 and stated that the complainant had already received the requested information in response to an earlier request. On the same date, the complainant sought an internal review, stating that the Council's response to their previous request did not match the information sought in their current request.
7. Following an internal review, the Council wrote to the complainant on 20 July 2022. It sent copies of its responses to the complainant's previous requests and reaffirmed its position that it had already sent the requested information to the complainant.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 1 August 2022 to complain about the way their request for information had been handled.
9. They had requested copies of all correspondence between the Council and various charities, and the Council had only sent them a list of the charities contacted and a copy of the e-mail which was sent to all of the listed charities.
10. In circumstances such as this, where the two parties have a different interpretation of the request and maintain those positions, the Commissioner will issue a decision notice which confirms which

interpretation he considers to be the correct one. If the complainant's intended interpretation is an objective reading of the request, then the Commissioner will issue a decision notice which orders the public authority to issue a fresh response based upon the complainant's interpretation of the request. If the complainant's interpretation is not an objective reading, and the public authority's is, then the Commissioner will issue a decision notice which finds that the request has been interpreted correctly by the public authority.

11. The Commissioner will also consider whether the Council holds further information falling within the scope of the request.

### **Reasons for decision**

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12. Section 1(1)<sup>1</sup> of FOIA states that

"Any person making a request for information to a public authority is entitled –

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and
- (b) if that is the case, to have that information communicated to him."

13. Section 8(1)<sup>2</sup> of FOIA states:

"In this Act any reference to a "request for information" is a reference to such a request which –

- (a) is in writing,
- (b) states the name of the applicant and an address for correspondence, and
- (c) describes the information requested."

14. Section 84<sup>3</sup> of FOIA defines "information" in this context as being information "recorded in any form".

15. Public authorities must interpret requests for information objectively. They must avoid reading into the request any meanings that are not clear from the wording. If the request clearly specifies exactly what

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<sup>1</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/1>

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/8>

<sup>3</sup> <https://www.legislation.gov.uk/ukpga/2000/36/section/84>

information or documents the requester wants, then there will only be one objective reading to the request.

16. The complainant considers that the Council holds further information within the scope of their request. They requested all correspondence between the Council and the charities on the list, and the Council has only sent them information as outlined in paragraph 9 above. The Council has not stated that it does not hold any further information within the scope of the complainant's request, it simply keeps reiterating that it has already sent the requested information to the complainant.
17. The Commissioner provided the Council with an opportunity to review its handling of the case and the Council responded by confirming its position that the complainant had already received the information they had requested.
18. In making his determination, the Commissioner has considered the strict wording of the request:

"I would like a copy of all correspondence between the charities you list, including their responses.

I've not been supplied with this, just paragraph of what was supposedly wrote, no names of the charities, no full email to show it was sent, no responses.

By correspondence I mean a copy of the ALL letters and emails sent and received from the charities. You told me you consulted and listened to their opinion, prove to me who you contacted, what you wrote and what they replied back with please."

19. The Commissioner considers that the request is clear in its scope. As the Council has not stated that it does not hold any further correspondence between itself and the charities regarding LTNs, the Commissioner considers on the balance of probabilities that the Council does hold further information within the scope of the complainant's request. By neither disclosing this information nor stating that it did/did not hold it, the Council has breached section 1 of FOIA.
20. The Commissioner requires the complainant to issue a fresh response disclosing all the requested information it holds falling within the scope of the request.

## **Right of appeal**

21. 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](mailto:grc@justice.gov.uk)

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

22. 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.
23. 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**

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**