

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 16 September 2024

Public Authority: Ealing Council
Address: Perceval House
14/16 Uxbridge Road
Ealing
W5 2HL

Decision (including any steps ordered)

1. The complainant has requested information from Ealing Council (the Council) in relation to maintenance and repair records on a named property.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any further information within scope of the request. However, he finds that the Council breached regulation 5(2) in respect of its late initial response.
3. The Commissioner does not require the Council to take any steps as a result of this decision.

Request and response

4. On 30 November 2023, the complainant wrote to the Council in the following terms:

“(address redacted). electronic and paper-based copies of maintenance and repairs records from 1st Jan 2010, including surveyors reports following visits in 2023 and any earlier one.”
5. The Council responded on 25 March 2024 and provided information in scope of the request.
6. The complainant requested an internal review on 27 March 2024 setting out their reasons and arguments as they believed the Council had “not supplied all the information requested, in particular, but not exclusively, a copy of the surveyors’ report following his visit on 10th February 2023.”
7. The Council responded on 25 April 2024 and explained that searches in relation to the request were carried out but due to processing shortfalls the information had not been stored within its systems. It recognised this shortfall and advised that a review had been carried out on the processes for tracking repairs and maintenance as a result. A new process has now been implemented to help prevent any future issues.

Reasons for decision

8. This reasoning covers whether the Council is correct when it says that it does not hold further information within the scope of the request.

The complainant’s position

9. The complainant considers the Council to hold information within the scope of their request.
10. The complainant said that: “They have failed to provide a copy of a surveyor's report which they state is not stored on their system, we believe it is common practice for reports to be stored on the surveyor's personal devices or elsewhere.”

The Council’s position

11. In its submissions to the Commissioner, the Council maintained its position that it has disclosed all the information it holds in scope of the request, and it does not hold any further information as suggested. It stated that: “At the time of receiving the request searches were carried

out on all systems to try and identify the requested report, none was found. As the people involved in this visit no longer work for the council, their IT accounts have been deleted meaning it was impossible to find the report requested."

12. The Council explained that: "The surveyors at the time of this visit no longer work for LBE, and it was unable to search their email accounts or devices for copies of any report."
13. The Council further explained that: "The council does not keep paper copies of all reports they are stored electronically. At the time of these requests LBE was not using the new reporting platform Safety culture."

The Commissioner's position

14. The Commissioner notes that the complainant considers the Council should hold information within the scope of the request as they believe the information is relevant to the Council's work and functions. However, the Commissioner is satisfied that the Council has provided the information it held in scope of the request and carried out reasonable enquiries with the relevant departments in order to locate and confirm if any further information was held within the scope of the request.
15. The Commissioner is not required to prove beyond doubt that the Council do or do not hold further information but can only make a decision based on the civil standard of the "balance of probabilities" that information within the scope of the request is more likely than not held.
16. The Commissioner's decision is that on the balance of probabilities, the Council does not hold any further information within the scope of the original request and considers the Council's explanations for this are adequate in this case.

Procedural matters

17. The Commissioner finds a breach of regulation 5(2) in respect of the Council's initial response which was more than 20 working days after receiving the request.

Right of appeal

18. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Deirdre Collins
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Information Commissioner's Office
Wycliffe House
Water Lane
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SK9 5AF