

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

Date: 3 April 2025

Public Authority: London Borough of Lambeth
Address: Lambeth Town Hall
Brixton Hill
London
SW2 1RW

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Lambeth (the Council) about its ownership of a school building. Based on evidence available to the Commissioner, he finds that the Council has breached regulation 5(2) of the EIR by failing to provide a response within 20 working days, as well as regulation 14 by failing to provide a refusal notice that cites the exception relied upon to refuse to disclose information sought at part [3] of the request. Furthermore, the Commissioner finds that the Council has breached regulation 11 by failing to provide an internal review outcome within 40 working days.
2. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Provide a fresh response to part [3] of the request that complies with the regulations, per the advice given at paragraph 18 of this notice.
3. The public authority must take these steps within 30 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 the Act and may be dealt with as a contempt of court.

Request and response

4. The complainant requested the following information from the Council on 6 June 2024:

"Please provide the following information about Cormont Road School SE5

1. How long has Lambeth Council been the owners of former Kennington Boys/Charles Edward Brooke School on Cormont Road SE5
2. How much does it cost Lambeth Council to keep the School building on Cormont Road? Please provide a breakdown of all costs for each year since Lambeth Council has owned the building?
3. What surveys have been done on the condition of the building in the last 15 years? Please provide reports and full details of the findings of all surveys. The School building has been Grade II listed since 1981. As the Local Planning Authority, Lambeth Council had responsibility, along with any previous owners, to ensure the listed building was protected and maintained"

5. The Council provided a response on 30 July 2024. The Council provided information within scope of parts [1] and [2] of the request.

6. In respect of part [3] of the request, the Council outlined its response in the following terms:

"Following the return of the site to LBL's control, the council has been undertaking a feasibility study¹ to explore whether the site could be converted to provide new homes. It would be expected to contribute towards LBL's objectives, strategies and policies within the Borough Plan, Local Plan and Housing Strategy. No final decision has yet been made on the future of the building (and the council will consult with the local community before any decisions about its future use are taken), although this could involve change of use or partnership with a delivery partner. Release of reports and surveys associated with this may prejudice the delivery strategy for this site."

7. The Council did not confirm whether it held "reports and surveys" or claim an exception from the duty to disclose them if it did.

8. The complainant requested a reconsideration on 2 September 2024 in the following terms.

¹ <https://moderngov.lambeth.gov.uk/ieDecisionDetails.aspx?ID=8359>

"I request a further review of the response to my FOI request ref: IRN26706609. The response to my question 3 is insufficient.

The response did not provide a lists of surveys done or feasibility reports and their details as requested. I have now received a list of surveys and feasibility done through a members enquiry from my Councillor Paul Gadsby. The list provided to Cllr Gadsby and passed onto me is below.

- Building Conditions Survey, undertake in 2016
- Feasibility report, undertaken in 2016
- Building Conditions Survey, undertaken in 2023
- Topographical, Point Cloud and Drone Surveys, undertaken in 2023
- Utilities Surveys, undertaken in 2023
- RIBA 1 Feasibility report (and associated design, planning and technical work), produced in 2024
- Protection Measures Report, produced in 2024

Please provide copies of the reports, if necessary, with any commercially sensitive information redacted. The building condition surveys should not be commercially sensitive. It has already been publicly stated that the roof repairs could cost up to £1.9 million. It is widely known the building has asbestos and that there is severe water ingress."

9. As of the date of this notice the Council has not provided the complainant with an internal review outcome.

Scope of the case

10. The complainant contacted the Commissioner on 28 October 2024 to complain about the way their request for information had been handled.
11. The Commissioner considers the scope of the case to be whether the Council has complied with the procedural requirements set out in the regulations.

Reasons for decision

12. In an attempt to resolve the complaint informally, the Commissioner wrote to the Council to request that it provide the complainant with an internal review outcome. The Council did not acknowledge or respond to the Commissioner's correspondence, nor did it provide the internal review as requested. The Commissioner has therefore proceeded to a decision notice.
13. The Commissioner finds that the Council has failed to comply with various procedural requirements of the regulations.
14. Regulation 5(2) of the EIR requires that, on receipt of a request, a public authority must provide a response within 20 working days. The Council has breached regulation 5(2) by failing to provide a response within the statutory time frame.
15. Regulation 14 of the EIR requires that a public authority relying on an exception in the EIR must issue the requester with a refusal notice stating which exception is being relied upon and the reasons not to disclose the requested information. The refusal notice must be issued within 20 working days.
16. The Council's response to part [3] of the request did not cite any exceptions from the duty to disclose, and the Council failed to provide the refusal notice within 20 working days. Therefore the Commissioner finds that the Council has breached regulation 14 in respect of part [3] of the request.
17. Regulation 11 of the EIR requires that a public authority must provide an internal review outcome within 40 working days from the date it was requested. The Commissioner finds that the Council has breached regulation 11 by failing to provide the complainant with an internal review.
18. The Commissioner requires the Council to provide the complainant with a fresh response to part [3] of their request. The Council must confirm whether it holds information meeting the description given in the complainant's internal review request. If the Council is seeking to rely on an exception from the duty to disclose, it must provide the complainant with a refusal notice that complies with the requirements of regulation 14. If, following service of the Council's fresh response the complainant wishes to raise a further complaint with the Commissioner, he will accept this complaint without requiring an internal review.

Right of appeal

19. 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

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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF