

Freedom of Information Act 2000 (FOIA)
Decision Notice

Date: 29 July 2022

Public Authority: London Borough of Waltham Forest
Address: Waltham Forest Town Hall
Forest Road
Walthamstow
E17 4JF

Decision (including any steps ordered)

1. The complainant has requested information regarding decisions and judgements around the implementation and success of Low Traffic Neighbourhoods (LTN's) by the Council. The Council provided some information in response to the request, but the complainant argued that this information did not fulfil their request and that the Council should hold further recorded information.
2. The Commissioner's decision is that, on the balance of probabilities, the further information sought by the complainant is not held.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 9 June 2021, the complainant requested the following information:

"I have been informed that the council is assessing the temporary LTNs installed under emergency traffic orders 2020/21.

To what criteria is the LTNs being judged to be a success or failure?
And can I have a copy of the papers of this and all below please?

To what extent are the EQIAs (equalities Impact Assessment) on the disabled and elderly being considered? How do you judge you've discharged your duty of care?

To what extent are the view of the effect residents and businesses with the LTNs and on the boundary roads to which the traffic is diverted?

Please can I have copy of the data collected prior to and post LTN for Coppermill Area (Markhouse Ave Area?"

5. The Council responded on 1 July 2021 answering each point in turn for the information requested and asked the complainant to clarify the final part of the request as they explained that the question was too broad in nature.
6. On 26 July 2021, at Internal Review, the Council further explained its initial response and upheld its original response advising no further information was held by the Council.

Scope of the case

7. The complainant contacted the Commissioner on 27 July 2021 to complain about the way their request for information had been handled.
8. The Commissioner considers the scope of this case is to determine whether it is likely, on the balance of probabilities, the Council holds further information which would fall within the scope of the complainants request.

Reasons for decision

Section 1 – General right of access to information

9. Section 1(1) of the 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.*

10. Section 1(1) requires that any person making a request for information to a public authority must be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.

11. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.

12. In other words, in order to determine such complaints, the ICO must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

The Complainant's position

13. The complainant argues that the Council should hold the requested information in order for it to make its judgment calls.

14. They also asked for a summary of the data used to make a decision whether it (LTN) is a success or failure.

The Council's position

15. The Council argues that it has conducted relevant searches and has provided all the information held within scope of the request.

16. The Council clarified its response and said "As detailed previously, all views are considered with an equal and unbiased perspective, regardless

of origin. As above, no specific criteria, thresholds or guidance are in place to determine whether the scheme is deemed to be a success or not. Feedback received is considered alongside other quantitative and qualitative data as part of the decision-making process, using experience and judgement."

17. The Council explained that after reviewing the complaint and the responses sent, that FOIA only covers recorded information held by the Council at the time of the request, and that it does not cover information that is in someone's head as part of a judgement call and was not recorded or written down.
18. They also said that "The evaluation of the criteria involved in a decision-making process is, as the service have explained above, based on experience and judgement. Such judgment-based decisions are not necessarily recorded as a record."

The Commissioner's conclusion

19. The Commissioner has considered the Council's position, in conjunction with the request.
20. The Commissioner recognises that the complainant believes that the information requested should be recorded, and alleges that the Council are obliged to hold the information.
21. The Council has confirmed to the Commissioner that after conducting relevant searches, including asking the service involved, it has been confirmed that a copy of any recorded information relevant to the specific request is not held.
22. There is no contradictory evidence available to the Commissioner that indicates the Council's position is wrong.
23. On this basis the Commissioner has concluded that, on the balance of probabilities, the requested information is not held.

Right of appeal

24. 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

25. 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.
26. 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

Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF