

Freedom of Information Act 2000 (FOIA)
Decision Notice

Date: 3 August 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 responses from groups and organisations about the effects of the implementation of Low Traffic Neighbourhoods (LTN's) by the Council. The Council provided a link to published 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 22 June 2021, the complainant requested the following information:

"I received an email from Common place on behalf of WF Council on the 21st June 2021.

https://newhamwalthamforestltnmap.commonplace.is/news/ltn-news_update?utm_campaign=NewsPost&utm_content=LTN+news+update&lang=en_GB&utm_source=cp-email&utm_medium=email

- 1- Accessibility for disabled people: We will be reaching out to groups that represent disabled people and writing to residents to find out about their experience of the LTN.

Please let me know the organisations your contacted regarding the above and correspondence between them and WF Council?

- 2- Increase in journey times and the impact on buses: To understand how journey times may have changed we are collecting and analysing traffic data in and around the LTN area.

Please send me the data showing the impact times on buses and any correspondence with the bus operators, and the traffic data collected.

- 3- Addressing road safety: We are collecting data to monitor traffic movements and are looking into road safety issues raised. However, residents have also told us that some streets within the LTN have seen a reduction in speeds and fewer cars racing down streets.

Please send me a copy of the road monitoring data recorded on roads inside the LTNs and boundary roads?"

5. The Council responded on 20 July 2021 and explained that they were in the process of collecting and collating relevant data and they expected to be in receipt of the raw data by late July.

6. On 20 July 2021, the complainant requested an internal review in the following terms:

"I am writing to request an internal review of Waltham Forest Borough Council's handling of my FOI request 'LTN news update'.

As per original request please let me have the answers at the end of July (as you stated they're to be ready) included correspondence with TFL regarding bus disruption (and anything else).”

7. On 17 August 2021, at Internal Review, the Council further explained that the data requested was still in the process of being collated and analysed, and therefore should be available in late Autumn 2021, they advised the requester to contact the information officer at that time as no additional information other than that already provided in its original response, was held by the Council.

Scope of the case

8. The complainant contacted the Commissioner on 17 August 2021 to complain about the way their request for information had been handled.
9. The Commissioner considers the scope of this case is to determine whether it is likely, on the balance of probabilities, the Council held information which would fall within scope of the request, at the time of the complainant’s request.

Reasons for decision

Section 1 – General right of access to information

10. 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.*

11. 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.
12. 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.

13. 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

14. The complainant argues that the Council should hold the requested information at the time of their request, as the Council had indicated it would be available in late July 2021, and then Autumn 2021.

The Council's position

15. The Council argues that it has conducted relevant searches and has provided all the information held within scope at the time of the request.
16. The Council clarified its response and said "The Council has previously supplied (name redacted) with the list of groups contacted. Despite multiple further attempts to engage with and obtain feedback from the organisations listed, no correspondence has been received."
17. During the Commissioners investigation, the Council advised that: "Bus Journey time data has been analysed and the results for the Newham and Waltham Forest LTN – Areas 1 and 2 have been publicised on the commonplace website." And that "data was published in January 2022" providing a link to the information online.
18. They have also said that: "The request relates to an electronic update received by (name redacted), as a subscriber to the digital engagement platform Waltham Forest and Newham Councils use to communicate and engage with stakeholders on the joint Newham and Waltham Forest Low Traffic Neighbourhood Scheme – Areas 1 and 2." Therefore, they would be informed of updates and have access to the published information as a subscriber.

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 that the Council are obliged to provide the information.

21. The Council has confirmed to the Commissioner that at the time of the request, recorded information relevant to the specific request was not held. And, that all the collated and analysed data received has been published and communicated to subscribers via the LTN news update.
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 was not held at the time of the request.

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
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Wycliffe House
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Wilmslow
Cheshire
SK9 5AF