

**Freedom of Information Act 2000 (FOIA)
Decision Notice**

Date: 4 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 the Equality Impact Assessments (EQIA's) for Low Traffic Neighbourhood Schemes (LTN's) implemented by the Council. The Council provided responses to each point in turn of the request, but the complainant argued that this information did not fulfil their request and submitted a further question.
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 notice that the EQIAs for LTNs schemes have not been signed.

Please can you tell me who signed off the EQIAs for the LTN schemes, (Coppermill etc)?

By what criteria did they judge that the EQIAs were acceptable?

And what relevant qualifications does this person have to do the role?"

5. The Council responded on 5 July 2021 answering each point in turn and also responding to a further question from the requester at that time: "A request for the Equality Impact Assessment for the LTN on Station Road. It's quite obvious what I've asked for." The Council provided a further PDF document in response to the new request.

6. On 25 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 'EQIA Signing off'. I'm not impressed with the contents of this EQIA, it falls short in various areas. According to FOI285163408 Coppermill-Appendix E-EQIA:-

'The scheme has developed through consultation with a number of stakeholders including: cycling and access groups, religious groups, local Councillors, local businesses, residents groups and the Council staff. Overall the scheme has received support. Continuous dialogue with stakeholders and the local community will form the basis of the final design of the Coppermill Liveable Neighbourhoods Scheme.'

But the person who wrote the report have not listed these groups and their feedback, no infact the emergency services. Please can you provide a list of these groups and their input/feedback please?"

7. On 23 August 2021, at Internal Review, the Council further explained that the data requested had been provided for both requests by the service and no further information in scope of the specific requests was held. They also advised the requester that the review request was actually a new request for information, and they would deal with it in the normal course of business.

Scope of the case

8. The complainant contacted the Commissioner on 23 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 further 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.

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 all relevant information in scope of the requests."
17. During the Commissioners investigation, the Council advised that: "in its FOI Response dated 05 July 2021, it has provided all the information that falls to be provided to the requester in fulfilment of his FOI request ref: FOI341004904. The Council further submits that it does not hold any further information within scope of this FOI Request." And that "a further FOI request, which was assigned the reference: FOI285163408" was dealt with at that time, stating "In response to the FOI Request, the requester was provided the Waltham Forest full equality analysis."
18. They have also said that:

"On 25 July 2021, the requester submitted a request that the Council review its response to FOI Request FOI285163408. The Council has provided all the information that falls to be provided to the requester in fulfilment of this FOI request. The Council further submits that it does not hold any further information within scope of this FOI Request. The requester's correspondence of 25 July 2021 is a new request for information that had not previously been requested." Therefore, they have dealt with the new request within the normal course of business.

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 disclosed to the requester, and that no further information was 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 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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