

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 10 November 2022

Public Authority: London Borough of Haringey
Address: 7th Floor, River Park House
Wood Green
London
N22 8HQ

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Haringey ("the Council") in relation to the raw results of a parking consultation in a specific area. The Council explained to the complainant that once all the information had been collated, it would be publishing the information on its website. The Council later explained, in its internal review response, that it was relying on section 22 of FOIA – information intended for future publication.
2. The Commissioner's decision is that the Council was correct to apply section 22 of FOIA in this case at the time of the request. The Commissioner does, however, consider that the Council breached section 17(1) of FOIA by failing to specify an exemption under FOIA in its initial refusal notice.
3. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

4. On 27 February 2022, the complainant wrote to the Council and requested information in the following terms:

"Please provide me with the raw results of the CPZ consultation in [named area] that closed in January 2022. I would mainly like the results for tickbox parts of Q3, Q4, Q5, Q6, Q7, Q8 and Q9 broken down by street and overall."

5. The Council responded on 17 March 2022. It provided an explanation of how the Council was going to handle the process, before providing the final report.
6. Following an internal review, the Council wrote to the complainant on 13 April 2022. It apologised for the previous response not fulfilling the requirements of FOIA. However, it went on to explain it was withholding the information under section 22 of FOIA - information intended for future publication.

Reasons for decision

7. Section 22(1) of the FOIA says that information is exempt information if:
 - (a) the information is held by the public authority with a view to its publication, by the authority or any other person, at some future date (whether determined or not)
 - (b) the information was already held with a view to such publication at the time when the request for information was made, and
 - (c) it is reasonable in all the circumstances that the information should be withheld from disclosure until the date referred to in (a).
8. Section 22 is a qualified exemption which means it is subject to the public interest test.
9. In this case the Council has clearly explained in its responses to the complainant that it intended to publish the submissions made to the consultation once it had collated all the responses.
10. The Commissioner is aware that the results were published on 19 July 2022.¹

¹ [Briefing for: \(haringey.gov.uk\)](https://www.haringey.gov.uk)

11. The Commissioner considers that the responses/consultation outcome were clearly held by the Council and at the time the request was made, the Council intended to publish this information, as communicated to the complainant.
12. The Commissioner accepts that in the circumstances, it was reasonable to withhold the information under section 22 of FOIA until all the information was collated.
13. The Council has explained that for it to have provided the information at the time of the request, it would have taken its officers away from their normal duties to locate and collate the information. Additionally, it explained that it provides 'overall results' for similar consultations once the process is collated.
14. As the Commissioner is satisfied that the exemption was applied correctly in this case, he has gone on to consider the balance of the public interest test.

Public interest test

Public interest in disclosing the information

The Council's position

15. The Council has explained that parking consultations can be controversial and do attract local interest amongst residents in the vicinity.
16. It has explained that disclosure would promote transparency and accountability in the decision-making process of the Council.

The complainant's position

17. The complainant says that the Council had previously advised that it would provide an update to the residents of the area in January or February of 2022. They say that there is a strong argument that the Council should honour any promises made.
18. The complainant has also explained that while the local elections may have delayed the decision itself, there is no reason why the results should not be available in the public domain before the elections. They add that there is a democratic interest in disclosure prior to the elections as it is a matter of public interest.

Public interest in maintaining the exemption

The Council's position

19. The Council has explained that public interest would be localised and not of an interest in a wider forum.
20. It also argued that the information was intended to be published in due course; to provide it at the time of the request, it would have been burdensome to the authority.
21. The Council explained that, at the time of the request, there were 895 responses to the consultation. Council officers would have to take time away from their normal duties to locate and collate the information to be able to provide it at that time.
22. The Council also explained that, as can be seen from other similar consultations that are available on its website, 'overall results' of consultations are provided once the process is concluded.

The complainant's position

23. The complainant has argued that any interest would be localised is not an argument against disclosure and says that the purposes of the use of information disclosed under FOIA is not considered relevant.
24. The complainant argues that the Council saying its officers would be taken away from their normal duties and that the work involved would be burdensome, is not credible. The complainant considers that the information would be located and collated, due to the Council advising it is aware of the number of responses.
25. The complainant has also argued that, at the time, the consultation was described on the website as a 'current consultation' and the officer involved has previously advised that "...we are undertaking detailed analysis of the [named area]". The complainant understands this to mean that the results are being done as part of Council officers' 'normal duties. They do not consider that providing information that already exists would be burdensome.

Balance of the public interest

26. The Commissioner considers that there is a public interest in the Council being able to publish the information, as it would promote transparency and accountability in the decision-making process.
27. The Commissioner also notes the complainant's arguments that to provide the information before an election is of democratic interest.
28. Whilst the Commissioner accepts that there is a public interest in openness and transparency, he is satisfied that it would have been burdensome for the Council to take officers' away from their normal day

to day roles to provide this information. Whilst the complainant may consider that the information is held by the Council and it is easily accessible, this may not be the case, especially for it to be provided in such a detailed format.

Section 17 – refusal of request

29. Under section 17(1) of the FOIA a public authority that is relying on an exemption to withhold information must, in its refusal notice, state that fact, specify the exemption in question and why the exemption applies.
30. In this case, the Council initial's refusal notice failed to state that it was relying on section 22 of FOIA. The Commissioner therefore finds that the Council's initial refusal of the request breached section 17(1) of FOIA.

Right of appeal

31. 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

32. 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.
33. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF