

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 5 May 2023

**Public Authority:** London Borough of Newham  
**Address:** Newham Dockside  
100 Dockside Road  
London  
E16 2QU

#### **Decision (including any steps ordered)**

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1. The complainant has requested information relating to a letter sent in May 2020 about Anti-Social Behaviour. London Borough of Newham ("the Council") stated information was not held for most of the request and provided a letter.
2. The Commissioner's decision is that the Council has provided all the recorded information it holds in scope of the request and complied with its obligations under section 1(1)(a) of FOIA.

#### **Request and response**

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3. On 20 June 2022, the complainant wrote to the Council and requested information in the following terms:

"On 6 May 2020, you responded to my request to stop antisocial behaviour on [address redacted]. Please see the document entitled, Correspondence - Mayor, which lists all correspondence between the Mayor and I. You refused to look into this matter, stating that the ASB team had investigated this matter. Among your comments, you mentioned that there was no ASB and that I was implicitly responsible for causing tension in the area. This contradicts the Council's own ASB letter sent in June 2019, addressing ASB head on. (see pdf document attached).

- 1) Under the FOI Act, could you please provide the names of the ASB officers, who reached this conclusion since I have not dealt with Newham ASB officers, other than [name redacted] (see PDF document).
- 2) Could you please clarify whether these were, in fact, ASB officers or PCSOs who work in the area?
- 3) Could you also disclose information about how they reached their decision regarding ASB in the area
- 4) and their conclusion that I was an instigator?
- 5) I have attached correspondence between PCSO [name redacted] and myself dated back to 2019, which shows that ASB was a concern. This contradicts the conclusion of the Mayor's Office.

This information is needed to understand the council's decision-making process. It is not exempt under any of the rules and should not take any more than 18 hours since you should have the info at hand. Happy to provide any more info, if needed."

4. The Council responded on 15 July 2022. It stated that for [1] and [2] there was no information held as there were no other Anti-Social Behaviour (ASB) officers investigating the complainant's case and the ASB Officer liaised with the PCSO regarding the reported criminal offences. For [3] the Council explained how an ASB Officer would make a decision and that this would have been outlined in letters sent to the complainant by the ASB Officer. For [4] the Council explained the information would be the complainant's own personal data so would be exempt under section 40(1) of FOIA. For part [5] the Council stated commenting on individual cases was outside the scope of FOIA.
5. The complainant requested an internal review on 29 August 2022. They disagreed with the responses to parts [1] to [3] stating that [name redacted] ASB Officer had not dealt with anything after 2019 so there must be more information held.
6. The Council responded on 9 December 2022. It stated it considered its responses to have been factually correct and reiterated the ASB Officer assigned to the complainant's case is the only ASB Officer who has been assigned. The Council stated it was aware that other officers from other sections of the Council's Law Enforcement team as well as the PCSO team had responded to reports made to the Council.

## **Scope of the case**

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7. The complainant contacted the Commissioner to complain about the way their request for information had been handled. In particular that the Council had not provided all the information it held.
8. During the course of the Commissioner's investigation the Council changed its position in relation to part [4] of the request, acknowledging that it should have not have cited section 40(1), but instead with regard to recorded information about why the Council had concluded the complainant was the instigator the response should have been that this information had already been provided in a letter dated 29 June 2019 from the Council.
9. The Commissioner considers that the scope of his investigation is to determine whether any further recorded information is held in relation to parts [1] to [4] of the request.

## **Reasons for decision**

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10. Section 1 of the FOIA states that any person making a request for information is entitled to be informed in writing by the public authority whether it holds information of the description specified in the request and, if that is the case, to have that information communicated to them.
11. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and he will consider any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.
12. The complainant has stated that his request(s) stem from correspondence they received on 6 May 2020 from the Mayor of Newham. This correspondence drew from advice and comments from the Council's ASB team and made several comments the complainant considered inappropriate. As a result the complainant sought to find out which ASB Officer(s) provided this advice in 2020 as they did not consider the comments in the Mayor's correspondence reflected their dealings with the ASB Officer initially allocated to the incident.
13. The complainant disputes the Council's assertion that no other ASB Officer had been assigned as this would mean May 2020 correspondence

from the Mayor was provided by the ASB Officer in question. The complainant's arguments are that:

- The ASB officer had send an email in January 2020 stating he was no longer dealing with the case and had no links to it. As such this ASB Officer cannot have any connection with an email of a later date (May 2020) and the opinions in the May 2020 correspondence must have come from someone else.
  - The correspondence the complainant did have with the named ASB Officer in 2019 advised he was not an instigator so the May 2020 email could not have been drawn from his advice.
14. For part [4] of the request the complainant states they were asking for information regarding the 6 May 2020 email as this labelled the complainant as an 'instigator'. The complainant stated they wanted to know who the ASB Officer was who provided this information and what information the held that led to the conclusion they were the instigator rather than just simply reporting ASB.

The request asked for the names of ASB Officers who provided the advice in the May 2020 letter and whether they were ASB Officers or PSCO's, as well as information on how decisions were reached and why the complainant was referred to as an instigator.

15. In reaching a conclusion in this matter the Commissioner has summarised that the complainant's issue with the response provided by the Council is firstly that he believes other ASB Officers or PCSOs must have provided advice to the Mayor other than the initial ASB Officer assigned and therefore the Council should provide additional names and, that there should be recorded information held that shows why he was labelled as an instigator.
16. The Council has asserted throughout that there were no other ASB Officers involved. The Commissioner can appreciate why the complainant believes this to be untrue based on communications he had with the ASB Officer in January 2020 but he also is aware that that Officer may well have been asked to comment on issues after this date and would already have documented his findings before May 2020 so it is entirely possible the letter was based on his findings.
17. In cases such as these the Commissioner must make a decision on the balance of probabilities and has no reason to dispute the statement made by the Council that no other ASB Officer was involved.
18. With regard to whether any other information may be held that sets out how conclusions were reached; the Council has explained how an ASB Officer would make a decision and has also re-sent a letter from June 2019 that was sent to the complainant setting out the conclusions

reached and explaining this. The Council states no other recorded information is held and, again, the Commissioner has seen no evidence to dispute this position.

19. The Commissioner's decision is that, with no further evidence to the contrary, he considers the Council has answered the questions asked and provided information in line with its obligations under section 1 of FOIA.

**Right of appeal**

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20. 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](mailto:grc@justice.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.

22. 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 .....**

**Jill Hulley  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
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SK9 5AF**