

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 31 January 2023

Public Authority: London Borough of Lambeth
Address: Lambeth Town Hall
Brixton Hill
London
SW12 1RW

Decision (including any steps ordered)

1. The complainant has requested information relating to the London Borough of Lambeth's (the Council) decision to replace windows in the complainant's building. The Council stated that the requested information was not held. In June 2021 the complainant contacted the Commissioner for a decision¹. The Commissioner found that the Council had failed to conduct an internal review that met the requirements of regulation 11(3)(a) (internal review) of the EIR and instructed it to conduct a fresh internal review. The Council conducted a fresh internal review and maintained that information within scope of the request was not held.
2. The Commissioner's decision is that further information within scope of the request is not held. He does not require any steps.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notices/2022/4021774/ic-115239-n9h0.pdf> - issued 14 September 2022

Request and response

3. On 18 November 2020 the complainant made a request for information to the Council. The complete request and response history is contained in the previous decision notice issued 14 September 2022 and will not be repeated here.
4. On 19 October 2022 the Council issued a further internal review in line with the Commissioner's requirements as outlined in his decision. The Council stated that, after discussing with the Head of Programme and Capital Management for Housing, it had concluded that no information was held within scope of the request and provided a narrative response regarding the [address redacted] 2016/2017 major works programme.
5. On 22 October 2022, in an email copied to the Commissioner, the complainant responded to the Council and stated that they were disappointed with the rigorousness of the internal review. The complainant referred the Council to paragraph 32 and 33 of the Commissioner's previous decision, in which he had identified two database systems ("Keystone" and "Northgate") listed by the Council in their Asset Management, Strategy and Policy document dated 2016², and noted that the Council's searches ought to have extended to include these databases. The complainant asserted that, as the Council had not undertaken a search of the databases, the internal review of 19 October 2022 was insufficient.
6. The complainant also requested a decision from the Commissioner.

Scope of the case

7. The Commissioner considers the scope of this case to be whether information is held within the scope of the complainant's request of 18 November 2020.

² <https://www.lambeth.gov.uk/sites/default/files/hr-lambeth-asset-management-strategy-and-policy-dec-2016.pdf>

Reasons for decision

The Council's position

8. The Commissioner contacted the Council to request details of the searches and consultations undertaken in relation to the request.
9. The Council explained that it had revisited the request again and had extended its searches to include the Keystone and Northgate database systems identified by the Commissioner in his previous decision, and the email accounts of senior officers, including the Head of Rents. The Council used [address redacted] as a search term. The Council stated that the searches identified an email from the complainant dated 15 July 2021, but did not retrieve any information within scope of the complainant's request of 18 November 2020.
10. The Council therefore maintained the position that recorded information was not held.

The Commissioner's position

11. The Commissioner's view is that the Council does not hold information further to that which has already been provided.
12. The Commissioner considers that the searches undertaken by the Council were sufficient and would have been likely to retrieve any information held in scope. He also wishes to draw attention to his findings at paragraph 34 in his previous decision notice in which he notes that, beyond identifying database systems and policy documents, 'the Commissioner has not seen any evidence that confirms that the Council does in fact hold information specific to the request.'
13. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

Right of appeal

14. 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

15. 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.
16. 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

Jonathan Slee
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF