

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

### **Decision notice**

**Date:** 21 December 2023

**Public Authority:** London Borough of Haringey  
**Address:** Alexandra House  
10 Station Road  
Wood Green  
London  
N22 7TR

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

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1. The complainant requested from London Borough of Haringey (the Council) information regarding its annual lettings plan for 2022-2023 and lettings policy. The Council advised that the information for the lettings plan had not been finalised and was intended for future publication. It also advised that a Lettings Policy as such was not held but provided the link to its Allocation Policy.
2. The Commissioner's decision is that the Council should have cited the exemption at section 22(1) (information intended for future publication) of FOIA to withhold the information requested.
3. The Commissioner does not require the Council to take any steps as a result of this decision.

## Request and response

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4. On 19 May 2023, the complainant wrote to the Council and requested information in the following terms:  
  
"Details of Request  
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- A copy of Haringey's Annual Lettings Plan (Year 2022-2023)  
- A copy of Haringey's Lettings Policy"
5. On 19 June 2023 the Council responded and stated the 2022-23 Lettings Plan had not been published and that it would be published once agreed. It provided a link to its Allocation Policy stating it did not have a Lettings Policy.
6. On 20 June 2023 the complainant asked for an internal review. On 28 July 2023 the Council provided its review response, explaining its statutory obligations and maintaining its original position.

## Reasons for decision

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7. In order to conclude the case as expeditiously as possible, and in the absence of the Council citing any exemption in its response, the Commissioner has proactively applied section 22(1) of FOIA as the appropriate exemption from disclosure.
8. This reasoning covers why the Council was entitled to rely on section 22(1) of FOIA to withhold the requested information.

## Section 22 – information intended for future publication

9. Section 22(1) of FOIA states 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 paragraph (a).
10. For the exemption in section 22 to apply, the public authority must have a settled expectation that the information will be published at some future date – even if no precise date has been set.

11. The Council was asked for evidence which demonstrated there was a settled intention to publish the requested information at the time of the request. It advised the Commissioner "I can confirm that for 2022/23 we should have already published the information, however due to an oversight this was not the case, and we are seeking further guidance to determine date for publishing".
12. The Council also stated "In relation to 2023/24, whilst we did draft the plan, due to changes in the landscape of voids and the moving deadline for the new build schemes the plan was not signed off. We were anticipating over 600 lets at the start of the year, though now may only let approximately 300, so the Plan could have been misleading. We are considering whether to wait until we publish the 2024/25 report within information referencing back to 23/24, so do not envisage a plan being published for 2023/24."
13. The Council explained that once the plans have been published, it would update the Commissioner and the complainant accordingly.
14. The Commissioner considers that it would have been reasonable for the Council to apply section 22 of FOIA to the information. The exemption is therefore engaged, and the Commissioner has gone on to consider the public interest test.

### **Public interest test**

15. The Council recognises there is a public interest in publication of the data, and that is the reason it intends to publish the information.
16. The complainant has argued that: 'Haringey council have been making statements to me regarding lets and shortage of lets and I don't understand where they are deriving their information from if the lettings plans are not available. I am under the impression that I am being discriminated against as I have been waiting to be offered suitable alternative accommodation for almost 2 years.'
17. The Council does not accept that there is a public interest in disclosure of the requested information in an unfinished or still to be agreed form as this could lead to misinterpretation and or misrepresentation of the data.
18. The Council must ensure statistical information intended for publication, meets the standards and requirements set for departmental publications and for government statistics. Therefore, it would not be in the public interest for the Council to release information without meeting such standards.

## **Balance of the public interest test**

19. The Commissioner recognises the public interest in the Council publishing the information, as it would promote transparency, and in limiting any delays to publication, it would enable timely public scrutiny. He welcomed the Council's evidence that the information will be published as soon as it is practical.
20. However, the Commissioner considers that there was a stronger public interest in the Council being able to publish the requested information in a controlled manner following the required quality checks. Premature disclosure of the information would be likely to impact on its quality and raise issues which the Council would have to divert resources into countering.
21. The Commissioner is satisfied that when the request was made to the Council, there was an intention to publish the information requested.
22. Having taken the arguments into account, the Commissioner's decision is that the balance of the public interest favours maintaining the exemption.

## **Other Matters**

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23. The Council failed to cite an appropriate exemption within its refusal notice to the complainant and The Commissioner has had to apply the appropriate exemption to this complaint. In future, the Council must ensure if it is considering withholding information<sup>1</sup>, it cites the appropriate exemption and backs this up with cogent arguments for its reliance on the said exemption.

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<sup>1</sup> [Refusing a request: writing a refusal notice \(section 17\) | ICO](#)

## Right of appeal

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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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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

**Susan Duffy**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**