

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 23 March 2017

Public Authority: Royal Borough of Greenwich
Address: Town Hall
Wellington Street
Woolwich
London
SE18 6HQ

Decision (including any steps ordered)

1. The complainant has requested information from the Royal Borough of Greenwich ("the Council") relating to meetings with the Council's Highways, Planning and Environment (waste collection and street cleaning) sections.
2. The Commissioner's decision is that the Council does not hold any information falling within the scope of the request beyond what has been disclosed. However, she has found the Council breached regulation 5(2) of the EIR (time for compliance) by failing to provide the requested information within 20 working days.
3. The Commissioner requires the Council to take no steps

Request and response

4. On 30 April 2016, the complainant wrote to the Council and requested information in the following terms:

"...I would like to have full details of all RBG officer meetings with Highways, Planning and Environment (waste collection and street cleaning), as they seem the most likely areas of community interest with any such group held during the calendar year 2015. This would include any agendas and minutes taken. I would like the information within the legal time limits for Freedom of Information requests".

5. The Council responded on 10 May 2016. It provided the complainant with a presentation which was given at an annual environment meeting. It further confirmed that it did not hold any further information.
6. The complainant subsequently asked for an internal review on 10 May 2016. She expressed dissatisfaction with the response she had received.
7. The complainant sent a further email on 2 June 2016 where she asked:
"...I would like my enquiries to be extended backwards to include the year 2014 and forwards into 2016 to date".
8. The Council sent the complainant its internal review response on 27 June 2016. Its response addressed both of the complainant's emails dated 10 May 2016 and 2 June 2016. The Council reconsidered its position and determined that it did in fact hold information falling within the scope of the request. It subsequently provided the complainant with a list of meetings attended by Street Services for the dates detailed in the request. The Council also provided the dates of meetings organised by the Planning Department. The Council confirmed that the meetings are *"purely information sharing/question and answer meetings and no notes are taken by Council Officers"*.

Scope of the case

9. The complainant contacted the Commissioner on 27 June 2016 to complain about the way her request for information had been handled.
10. Specifically the complainant argued that the Council held further information falling within the scope of her request.
11. During the Commissioner's investigation, the Council located further information and this was provided to the complainant. This consisted of information such as minutes, further information relating to the minutes and some handwritten notes taken at meetings by Council Officers. However the complainant argued that the Council still held further information that had not been provided.
12. The Council also considered that the request should have been handled under the EIR and not FOIA. With this in mind, the Commissioner notes that the complainant's email of 2 June 2016, where she revised the timescale of her request, would technically speaking represent a new request for information under both the EIR and FOIA. However, it was not disputed by the Council that the revised request could be considered

in the internal review and has therefore considered the handling of the extended request in this decision notice.

13. The Commissioner agrees with the Council's position that the request should be handled under the EIR. She has therefore gone on to consider the substantive issue of whether the Council holds any further information falling within the scope of the request.

Reasons for decision

14. Regulation 12(4)(a) provides that a public authority may refuse to disclose information where it does not hold that information when a request is received.
15. Where there is a difference between the amount of relevant information identified by a public authority and the amount of relevant information that the complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of proof, the balance of probabilities. The Commissioner must decide whether on the balance of probabilities the public authority holds (or held at the time of the request) any additional information which falls within the scope of the request.
16. The complainant argued that the Council would hold further information falling within the scope of her request. To support this, she sent the Commissioner a list of meetings that Council Officers had had with a local residents association. The list consisted of the dates of the meetings from 8 January 2015 to 6 July 2016 along with the titles of the meetings such as "*8th January – RGB Planning*". The complainant explained that the association has had a number of meetings that were not listed in the information that had been provided to the complainant by the Council.
17. The Commissioner subsequently sent the Council a copy of the list of meetings provided to her by the complainant. The Commissioner asked the Council to consider the list and determine whether it held any information relating to the meetings detailed.
18. The Council considered that a number of meetings detailed on the list fell outside of the scope of the request. The Council explained that they instead fell within "*Central Services area of work*" and not the "*Highways, Planning, Environment (waste collection and street cleaning)*" area. These meeting were dated 8 July, 13 July and 9 November 2015.

19. The Council also explained that the meeting dated 29 October 2015 also fell within Central Services. However, the Council considered that it related to a Community Safety and Environment Scrutiny panel and as such was covered by the scope of the request. The information regarding the meeting has been provided to the complainant.
20. In relation to the meetings listed as "*Skate park stakeholder meetings*", the Council explained that no officers from Highway, Planning or Environment attended these meetings and therefore no information was held. The Council explained:

"The skate park project manager at the time attended these project meetings. The meetings were organised to discuss issues pertaining to the potential plans for a skate park, design, noise abatement etc. As the project needed planning permission which had not been granted at the time, it was not necessary for planning officers to attend".
21. With regard to the planning and environmental services meetings, the Council explained that Officers attended with a print out of the meetings that the association had provided for them. The Council advised that some Officers took a pen to highlight any issues on the agenda. The Council confirmed though that the agendas and minutes are not retained by the officers and any action points from these meetings are provided by the organisation. The Council further confirmed that Council Officers did not produce the agendas or minutes for these meetings.
22. Referring to the site allocation meeting on the 27 February 2016, the Council stated that this was a 'drop in' consultation held at the Greenwich centre. The Council confirmed that the only information it holds in relation to this is the number of attendees which has been provided to the complainant. The Council confirmed that there are no handwritten notes from the meeting. The Council explained that officers answered 'jot down' questions which were answered verbally with no notes taken.
23. Further to this, the Council explained that the meetings that took place after 2 June 2016 fell outside of the dates specified in the request.
24. As described in paragraph 11, some hand written notes were provided to the complainant during the Commissioner's investigation. Upon receipt of this information, the complainant argued that further handwritten notes would be held by the Council. She explained that members of the association have seen Council Officers writing notes at meetings. She also expressed her view that handwritten notes should be typed up and kept in a recorded form by the Council.

25. The Commissioner returned to the Council on this point. The Council explained that all the handwritten notes it holds falling within the scope of the request have been provided to the complainant. It further explained that Highways, Planning and Environment do not have a policy with respect to handwritten notes. Therefore there is no requirement for Council Officers within Highways, Planning and Environment to keep handwritten notes or type them up.
26. The Council confirmed that it had reconsidered the scope of the request and spoken to various Council officers who confirmed that no further information was held relating to meetings that took place with Council officers between 2014 – 2016 which falls within the scope of the request.
27. The Commissioner acknowledges that the Council has not handled this request as well as it could have done due to the piecemeal approach when providing the requested information. However, on the balance of probabilities, the Commissioner is satisfied that no further information is held.

Regulation 5 – time for compliance

28. Regulation 5(2) states that a public authority has a duty to inform the requester whether it holds the requested information, and if so, to communicate the requested information to them *“as soon as possible, and no later than 20 working days after the date of receipt of the request”*.
29. In this case the Council provided the requested information over a period of months. This is a clear breach of regulation 5(2) as the Council failed to provide all the recorded information it held within 20 working days.
30. The Commissioner would take this opportunity to remind the Council to ensure that thorough and effective searches are carried out in the first instance to ensure that all relevant information is provided to the requester within the statutory timeframe. By doing this, it may prevent a breach of the legislation occurring in the future.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

Alun Johnson
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