

**Freedom of Information Act 2000 (FOIA)**  
**Decision Notice**

**Date:** 4 August 2022

**Public Authority:** London Borough of Waltham Forest  
**Address:** Waltham Forest Town Hall  
Forest Road  
Walthamstow  
E17 4JF

**Decision (including any steps ordered)**

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1. The complainant has requested information from the Council regarding email responses from the emergency services about road closures due to a sewer collapse. The Council provided some information in response to the request, but the complainant argued that this information did not fulfil their request and that the Council should hold further recorded information.
2. The Commissioner's decision is that, on the balance of probabilities, the further information sought by the complainant is not held.
3. The Commissioner does not require the Council to take any steps.

## **Request and response**

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4. On 15 July 2021, the complainant requested information in the following terms:

"Please provide copies of the emails sent to the 3 emergency services informing them that the roads were closed and concrete blocks installed in front of the removable bollards due to the recent sewer collapse in Leyton High Road on the 22/06/21 and all 3 emergency services responses to those emails.

email sent to E Services 23/06/21 re:closure of Leytonstone High Road

email sent to E. Services 25/06/21 re:closure of Bushwood E11 at the junction with Stanmore Road

email sent to E. Services 29/06/21 re:closure of Mornington Road E11 at the junction with Barclay Road."

5. The Council responded on 4 August 2021 and supplied four PDF documents that they said were in scope of the request.
6. On 4 August 2021, the complainant requested an internal review as they believed information was missing in the response from the Council and asked:
- "You have provided the Met Police response to 2 of these. What about the Fire and Ambulance services email and responses?"
7. On 19 August 2021, at Internal Review, the Council further explained its initial response and advised that no additional information other than that already provided in its original response, was held by the Council.

## **Scope of the case**

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8. The complainant contacted the Commissioner on 19 August 2021 to complain about the way their request for information had been handled.
9. The Commissioner considers the scope of this case is to determine whether it is likely, on the balance of probabilities, the Council holds further information which would fall within the scope of the complainants request.

## Reasons for decision

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### Section 1 – General right of access to information

10. Section 1(1) of the FOIA states that:

*Any person making a request for information to a public authority is entitled—*

- (a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and*
- (b) if that is the case, to have that information communicated to him.*

11. Section 1(1) requires that any person making a request for information to a public authority must be informed in writing by the public authority whether it holds information relevant to the request, and if so, to have that information communicated to them. This is subject to any exclusions or exemptions that may apply.

12. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.

13. In other words, in order to determine such complaints, the ICO must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

#### The Complainant's position

14. The complainant argues that the Council should hold the requested information (response from the emergency services) for record keeping and auditing purposes.

#### The Council's position

15. The Council argues that it has conducted relevant searches and has provided all the information held within scope of the request.

16. The Council clarified its response and said, "Before proceeding, I must highlight that in the FOI response you received you were advised that

"No other responses were received." And "The service has advised that the emails provided in the FOI response were sent simultaneously to London Fire Brigade and London Ambulance Service in addition to the Metropolitan Police. The Police responded as provided and the service answered their enquiries. This data was also provided. The service confirmed that, as stated in the FOI response, no-one else (including Fire & Ambulance services) responded. The service has now re-checked their inboxes and confirmed there were no other responses."

17. During the Commissioners investigation, the Council advised that the emails sent to the emergency services were sent from a specific mailbox for this purpose, and any responses were checked within that mailbox to ensure that they were accounted for.
18. The Council confirmed that its retention policy for records of this type is six years, and therefore any responses it may have received would be retained for this period.

#### The Commissioner's conclusion

19. The Commissioner has considered the Council's position, in conjunction with the request.
20. The Commissioner recognises that the complainant believes that the information requested should be recorded.
21. The Council has confirmed to the Commissioner that after conducting relevant searches, it has been established that any information received in response to the Council's emails, would be recorded and held for the relevant retention period, however, information relevant to the specific request is not held as responses were not received by the Council.
22. There is no contradictory evidence available to the Commissioner that indicates the Council's position is wrong.
23. On this basis the Commissioner has concluded that, on the balance of probabilities, the requested information is not held.

## 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 .....**

**Phillip Angell**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**