

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

### **Decision notice**

**Date:** 7 December 2022

**Public Authority: London Borough of Lewisham**

**Address: Laurence House  
1 Catford Road  
London  
SE6 4R**

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

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1. The complainant has requested that the London Borough of Lewisham ("the Council") publish the final report of the Broadway Theatre Working Group as well as any correspondence between the Mayor and/or the Deputy Mayor of Lewisham and any correspondence between Council Officers regarding the work of Broadway Theatre Working Group.
2. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold further requested information.
3. The Commissioner does not require the Council to take any steps as a result of this decision notice.

### **Request and response**

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4. On 12 June 2022, the complainant wrote to the Council and requested information in the following terms:

"Please publish the final report of the Broadway Theatre Working Group.

In addition, please publish any correspondence between the Mayor and/or the Deputy Mayor of Lewisham and any correspondence between Council Officers regarding the work of this Working Group including the final report.

The Broadway Theatre Working Group was established by the Council as time limited body during the 2014-2018 administration. Please consider this request under the EIR and FOI regulations."

5. The Council responded on 15 July. It stated that

"The reports that you have requested can be found via the following links

<https://councilmeetings.lewisham.gov.uk/documents/s46602/Broadway%20Theatre%20Working%20Group%20Report.pdf>

<https://councilmeetings.lewisham.gov.uk/ieListMeetings.aspx?Act=later&CIId=354&D=201512041815>

[https://councilmeetings.lewisham.gov.uk/documents/g4103/Public reports pack 01st-Feb-2016 19.00 Broadway Theatre Working Group.pdf?T=10](https://councilmeetings.lewisham.gov.uk/documents/g4103/Public%20reports%20pack%2001st-Feb-2016%2019.00%20Broadway%20Theatre%20Working%20Group.pdf?T=10)

Unfortunately we are unable to find any email correspondence between the Mayor/Deputy Mayor and council officers in relation to the Broadway Theatre Working Group. This is partly due to the timescales involved but also because the relevant officers have now left Lewisham Council."

6. Following an internal review the Council wrote to the complainant on 30 September 2022. It stated that:

"In summary, we wish to uphold our original response but provide some clarity.

With regard to the following statement:

"Unfortunately we are unable to find any email correspondence between the Mayor/Deputy Mayor and council officers in relation to the Broadway Theatre Working Group. This is partly due to the timescales involved but also because the relevant officers have now left Lewisham Council"

We have carried out further searches and can confirm that no recorded information is held in relation to this part of your original request. No physical files are held, the, then Chair holds no recorded information, the Mayor and Deputy Mayor at the time (circa 2016) are no longer with the Council and neither is the Director of Culture, Libraries and Learning."

## Scope of the case

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7. The complainant contacted the Commissioner on 7 October 2022 to complain about the way their request for information had been handled because they believed further information was held.
8. The Commissioner considers the scope of the investigation is to determine if, on the balance of probabilities, the Council holds the requested information regarding the specified correspondence.

## Reasons for decision

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9. Under section 1(1) of FOIA anyone who requests information from a public authority is entitled under subsection (a) to be told if the authority holds the information and, under subsection (b), to have the information communicated to them if it is held and is not exempt information.
10. The Commissioner has sought to determine whether, on the balance of probabilities, the Council holds the requested information.
11. From the information provided, the Commissioner can see that the Council has explained in both the original response to the complainant and in the internal review, that it does not hold such information.
12. The Council explained to the ICO that Broadway theatre working group was established in 2015 and disbanded in 2016 and that: "Given the passage of time and scope of the request, the probability of any relevant documents being held is extremely unlikely." The Council further stated:

"To try to gain access to redundant email accounts would unlikely yield any recorded information within scope of the request as this dates back over 6 years and there would be no business need to formally record the information requested."
13. On 15 November 2022 the Commissioner asked the Council to try to gain access to the redundant email accounts and, if possible, to search them for information within scope of the request. On 28 November 2022 the Council informed the Commissioner that further searches of

the redundant email accounts had now been carried out and yielded no recorded information within scope of the request.

14. The Commissioner is satisfied that appropriate searches and consultations were carried out to determine whether information in scope of the request was held.
15. On the balance of probabilities, the Commissioner is satisfied that the requested information is not held by the Council and, therefore, it cannot be provided.
16. The Council has complied with its obligations under section 1(1) of FOIA in this case.

## Right of appeal

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17. 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-regulatorychamber](http://www.justice.gov.uk/tribunals/general-regulatorychamber)

18. 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.
19. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**