

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

Date: 8 March 2022

Public Authority: London Borough of Redbridge

Address: Town Hall
High Road
Ilford
Essex
IG1 1DD

Decision (including any steps ordered)

1. The complainant has requested information about a report. London Borough of Redbridge ('the Council') has advised that it does not hold the specific information requested.
2. The Commissioner's decision is as follows:
 - On the balance of probabilities, the Council does not hold any information within scope of the request and the exception under regulation 12(4)(a) of the EIR is engaged.
3. The Commissioner does not require the Council to take any corrective steps.

Request and response

4. On 13 September 2020 the complainant wrote to the Council and requested information in the following terms:

"I have asked that all the the [sic] cumulative impact of several developments needs to be assessed and that impact, including the air

quality, goes forward and is reported to the planning committee when the applications goes forward."

I seek under freedom of information laws the following:

- a - An estimate of the hours spent by officers writing the report on 10th September
 - b - How many staff are working on the report on the 10th September.
 - c- The word count produced so far in the draft report at on the 10th September
 - d- If this report has been contracted out to a private company, the date it was contracted out."
5. The Council responded on 5 October 2020. It advised that matters concerning "the application" were still under consideration; that there is no "stand-alone cumulative impact assessment report for 'several developments'"; that a report produced by 'Aether' was published on the Council's website and that "there is reference to hours spent on the 10 September report" but that this information cannot be provided as it was unclear what report the complainant was referring to.
 6. The complainant requested an internal review on 6 October 2020. They explained which report was the focus of their request and confirmed their request of 13 September 2020.
 7. The Council provided an internal review on 4 November 2020. It advised that its response to parts a-c of the request was 'nil' as the report was contracted out to an external provider, and that it was not able to respond to part d at that point.
 8. On 18 February 2021 the Council wrote to the complainant again. It confirmed that, in contrast to what its other correspondence may have suggested, there is no "stand alone cumulative impact report" and that no such report was commissioned. The Council advised however, that there was a report – the 'Ricardo review report' - which was available on the Council's website.

Scope of the case

9. The complainant first contacted the Commissioner on 12 January 2021 to complain about the way their request for information had been handled.

10. The Commissioner's investigation has focussed on whether, on the balance of probabilities, the Council holds the specific information the complainant has requested and whether regulation 12(4)(a) of the EIR is engaged.

Reasons for decision

Regulation 12(4)(a) – information not held

11. Regulation 12(4)(a) of the EIR says that a public authority may refuse to disclose information to the extent that it does not hold that information when an applicant's request is received.
12. In this case, the complainant has requested a report on the cumulative impact of several developments. From their request, this appears to be a report that the complainant considers they had previously suggested that the Council should prepare.
13. In its submission to the Commissioner the Council has explained that the complainant first made their request after hearing a commitment the Council Leader made to commission such a report during a June 2020 Cabinet meeting. There was no written request from the Leader for such a report, but the Corporate Director heard the commitment and brought it back to the Planning Service. Developers commissioned various air quality and environmental reports to support their respective planning applications, and these were published on the Council's website for transparency.
14. However, a stand-alone cumulative impact assessment report covering all the developments was never commissioned.
15. The Council says that, regrettably, confusion about the requested report set in from the outset as the complainant was submitting numerous enquiries and requests directly to officers and via 'iCasework' enquiries (the Council's complaint and FOI system) for information on a range of similar reports for other major planning applications.
16. The responses to the requests were directed to different officers, notably the Principal Planner, Development Control Manager and Group Manager for Environmental Health and Home Improvements. These officers were involved in several major planning developments and were responsible for overseeing the feasibility and quality reports, mostly commissioned by the developers. The Council considers that the complainant's requests were framed in such a way that officers genuinely believed they were providing the information they had requested. The officers referenced the actual reports (which contained an element of cumulative

impact/air quality assessment) that were in the process of being commissioned and drafted. But there was no reference to any multi-development cumulative impact report, which is what the complainant wanted. The Council has confirmed that it has never commissioned a multi-scheme cumulative impact report and such a report does not exist.

17. The council acknowledges responsibility for erroneously providing inaccurate information on the status of the report [because the report does not, in fact, exist]. It says it has apologised to the complainant for the misunderstanding and any confusion caused.
18. Finally, the Council has described the searches it undertook for any information that might fall within scope of the request. It says that officers are sent by email/diary prompt details of FOIA/EIR requests on receipt. On receipt of the complainant's request, officers would have searched their own devices for details of the reports that were being commissioned. There were no staff consultations in this instance, although the Council has acknowledged that, with hindsight this might have been useful to establish "the actual status of the multi scheme report" by which the Commissioner understands the Council to mean the existence or otherwise of a multi-scheme report.
19. iCasework is the system the Council uses as a repository for all complaints, enquiries, FOI requests etc. Search terms mostly include name, email, and case reference number. Officers used their own search terms for any reports in their own devices, using the scheme details and report name.
20. The Council concludes its submission by confirming it considers it carried out adequate searches at the time of the request but acknowledges that there was confusion over the actual report being requested.

Conclusion

21. The Commissioner considers that the Council's explanation is entirely credible. He has noted the early confusion about what report was being requested but he considers that the Council is best placed to know if the specific type of report that the complainant has requested was produced and was held. The Council has confirmed such a report was not commissioned and the Commissioner accepts that is the case. The Commissioner's decision is therefore that, on the balance of probabilities, the Council does not hold the specific information that the complainant has requested and that regulation 12(4)(a) of the EIR is engaged.

Right of appeal

22. 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

23. 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.
24. 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

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