

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 5 August 2015

Public Authority: London Borough of Lambeth
Town Hall
Brixton Hill
Lambeth
SW2 1RW

Decision (including any steps ordered)

1. The complainant has requested information from London Borough of Lambeth ("the Council") concerning when signage LHS0029751 was approved and erected. Some of the requests were refused by the Council on the grounds that section 14(2) applied: that the request was a repeated request.
2. The complainant also requested all documentation relating to its Traffic Enforcement Policy and Code of Practice.
3. The Commissioner considers that the Council application of section 14(2) was correct.
4. The Commissioner decision is that the Council has provided him with all the recorded information that falls within scope of the request.
5. The Commissioner does not require any steps to be taken.

Request and response

6. On 12 September 2014, the complainant wrote to the Council and made an information request.
7. A copy of the requests can be found in Annex A at the bottom of this Decision Notice.
8. The Council responded on 15 October 2014. In relation to request 1 the Council explained that the photograph was obtained from the Council's contractor, NSL. It further explained that it had already provided this

confirmation to the complainant on more than one occasion. It subsequently cited section 14(2) as the Council felt this was a repeated request.

9. For request 2 the Council reiterated its response in relation to request 1 and relied upon section 14(2).
10. With regards to request 3 the Council explained that it did not hold any information within the scope of the request.
11. With respect to request 4 the Council stated that it had previously provided this information and therefore relied on section 14(2).
12. In relation to request 5 the Council explained that it had provided all the photographs with times and dates on, that were held by the Council for the appeal against PCN. The Council therefore relied upon section 14 (2)
13. In relation to request 6 the Council provided the complainant with an explanation as to why it considered the request was vexatious.
14. In response to request 7 the Council explained that it had already provided the complainant with the relevant codes of practice and policies in question and it confirmed that these were followed.
15. With reference to request 8 the Council explained that the approved suspension signage application form had already been provided to the complainant. It therefore cited section 14(2).
16. With respect to request 9 the Council explained that the information regarding signs has already been provided in a previous request. The Council therefore relied upon section 14(2).
17. In response to request 10 the Council considered that the complainant was attempting to re-open a case that has already been investigated. The Council therefore applied section 14(1).
18. The complainant returned to the Council on 25 November 2014 and expressed dissatisfaction with the response he had received. In the complainants email to the Council he detailed why he were dissatisfied.
19. The Council sent the outcome of its internal review on 24 December 2014. The Council maintained its previous decision.
20. On the 24 February 2015 the complainant wrote to the Council asking it to reconsider the application of S.14 (1) to request 10.
21. On 26 March 2015 the Council wrote back informing the complainant that it reviewed request 10 and did not feel the application of s14(1)

was applicable. After this review the council decided to use s14 (2) to request 10.

Scope of the case

22. The complainant contacted the Commissioner on 7 November 2014 to complain about the way his request for information had been handled.
23. The complainant disputed the Councils application of section 14(2) to requests 1, 2, 4,5,8,9 and 10. The complainant also argued that the Council would hold further recorded information that fell within the scope of request 7.
24. The Commissioner has therefore had to consider whether the Council was correct to apply section 14(2) and whether the Council holds further information which would fall within the scope of request 7.

Reasons for decision

Section 14

25. Section 14(2) of FOIA states that

"Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request for that person unless a reasonable interval has elapsed between compliance with a previous request and the making of the current request".

26. The Council has argued that the complainant has made similar requests for the same information.

Requests can be refused on the basis of section 14(2) if:

- It is made by the same person as previous request;
- It is identical or substantially similar to the previous request; and
- No reasonable interval has elapsed since the previous request.

Are the requests made by the same person?

27. The Commissioner notes that all the requests were made by the same person.

Is the request identical or substantially similar to the previous requests?

28. The Commissioner considers that a request will be substantially similar to a previous request if a public authority would need to disclose substantially similar information to respond to all requests, even if the wording of the request is not identical.
29. Attached in Annex A is the second request and in Annex B is the first request the complainant made. As the complainant's second request was a lengthy document I have extracted the relevant requests the complainant has asked for.
30. The Council feels that these requests are substantially similar in nature to the complainant's first requests.
31. The Council has argued that:
 - Request 1, 2, 4 and 5 in annex A is substantially similar to request 1 in Annex B.
 - Request 7 in Annex A is substantially similar to request 4 in Annex B.
 - Requests 9 in annex A is the same as request 5 in annex B.
 - Request 10 in Annex A is substantially similar to request 7 in Annex B.
32. The complainant feels that the Council has not complied with his previous requests. In the complainants request dated 25 July 2014 he seeks clarity or corroboration of the pervious responses provided by the Council and therefore he feels section 14(2) would not be applicable as he feels the requests are not identical to his previous requests.
33. The complainant has further argued that the Council has not provided him with the information he has requested in his previous requests. He feels that the requests are not repeated and he is merely trying to seek documentation that can confirm what the Council is stating to be true and accurate.
34. However, the complainant does concede that the Council has confirmed NSL carried out the installation of the signage and the date it was completed on. The complainant also agrees that the Council has provided information that the approval for the signage was obtained through the Council and [redacted name].
35. On the basis of the submissions made, and in consideration of the request, the Commissioner does consider the requests to be repeated.

36. The Council has answered the previous requests and given all the information it holds regarding the signage in its previous responses such as the application for suspended parking, a timed and dated photograph showing when suspension was implemented and other supporting documentation. Therefore the Commissioner feels the questions asked were of a similar nature and that the outcome of the requests would be the same.

Section 1

37. Section 1 – Section 1(1) of the Act states that:

38. (a) "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."

39. 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 Information Tribunal decisions, applies the civil standard of the balance of probabilities.

40. The complainant has argued that the Council has not provided him with any information other than the codes of practice that falls within the scope of request 7

41. The Council has stated that it has already given the complainant the details that fall within the scope of request 7 which is the Traffic Enforcement Policy and the Codes of Practice on Civil Parking. This can be found on the Councils external website and on the London Council websites for Civil Parking and Traffic Enforcement following the links below:

42. www.londoncouncils.gov.uk/policylobbying/transport/parkinginlondon/cod eofpracticeoncivilparking.htm

43. www.londoncouncils.gov.uk/policylobbying/parkinginlondon/cctvcodeofp ractice.htm

44. www.londoncouncils.gov.uk/policylobbying/transport/parkinginlondon/ce ohandbook.htm

45. The Council has confirmed that this was communicated to the complainant and that the codes of Practice were followed as required and the decision was made by the Line Manager. This was then reviewed independently by PATAS. However, no record of this was made.

46. The Commissioner has investigated the complaint by returning to the Council and asking it and number of questions in order to determine whether the Council holds any recorded information sought by the complainant.
47. The Commissioner asked the Council to detail the searches it had carried out and why these searches would have been likely to locate the requested information.
48. The parking management team have oversight of their staff through corporate staff reporting frameworks and in relation to the third party, the NSL contract. There is no specific recorded information the Council holds that can be provided other than the links previously supplied to the complainant.
49. With regards to the codes of practice being followed the Council stated that the decision was made by the Line Manager to make sure the codes of practice were followed. This information was not recorded by the council but it was communicated to the complainant that the Council had followed the correct procedure. The Council told the Commissioner that it makes every effort to record information but cannot record every single process.
50. The Commissioner acknowledges the complainants argument and why he considers that recorded information would be held by the Council. However, based on the submissions provided by the council, the Commissioner is satisfied that on the balance of probabilities the requested information is not held.
51. The Commissioner requires no further steps to be taken.

Right of appeal

52. 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

53. 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.
54. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex A – Information requests dated 12 September 2014 (second request)

1. I requested confirmation of the source of the photograph provided and that contractor referred to by the Council took the photograph. I am seeking to ascertain the precise lawfulness of the signage which is being disputed and therefore I request information from the Council, including some form of statement of work or contract note or other signed order from the Council which confirms that the contractor was requested to erect signage LHS0029751 on the relevant dates. I can confirm that this information has not been provided and is not already in my possession, as mentioned in your response.
2. The statement made in your response "this photograph has been obtained from the Council's parking contractor" is what I am seeking to corroborate. I should be grateful if you could provide this.
3. As the Council is relying on the photographs provided by its contractor to enforce a penalty and in connection with a legal process I should therefore be grateful if the Council obtain whatever else may be available from the contractor in this regard.
4. Acknowledge that the Council has confirmed that NSL carried out the installation of the signage and the date it was completed, however no evidence has been provided to corroborate this. I therefore request again items previously requested.
5. The requested information is not in my possession and there are discrepancies between the Council's photographs provided to PATAS and the contractor's photographs which the Council has sent me. This information is vital in establishing the Council's confirmation statement in its case summary to the PATAS dated 10 September 2013 that signage would have been erected before 20th May 2013. So far this information is not in my possession and therefore makes the request again.
6. I should therefore be grateful if you could provide as much detail as possible to explain the grounds on which you consider my request to be vexatious.
7. I would remind the Council that no evidence has been provided to confirm it followed the code of practice on Civil Parking and Traffic Enforcement as explicitly stated by [redacted name] in his

letter dated 29 May 2013. I should therefore be grateful if such evidence is provided by the Council.

8. I would request again, any information which confirms (together or in one place) that [redacted name] and the Council approved suspension signage LH56883808 (such as a letter or application form) if this is not available, I should be grateful if you can confirm that you do not hold any such item of information.
9. Please provide evidence to support why the signage is compliant with the DFT Authorisation.
10. Please provide a copy of the street enforcement contract.

Annex B – Information request dated 4 October 2013 (First request)

1. All documentation and notes to confirm when the signage was erected to suspend the parking bay.
2. All documentation and notes or other materials to confirm that notice was given to motorists to inform them that the suspension was coming into effect.
3. All documentation to confirm the steps taken by Lambeth Council to provide such notice to motorists
4. Documentation confirming communication between Lambeth Council and [redacted name] concerning the approval of the suspension.
5. All documentation relating to its design of suspension signage and the steps Lambeth Council takes to ensure whether its suspension signs adhere to the Department for Transport Authorisation reference GT50/088/0010 DATED 8 August 2012.
6. Confirm whether the parking bay in question was suspended at the request of third party and provide all documentation to confirm that such request was authorised.
7. All documentation relating to its traffic enforcement policy and its policy on the issuing of parking tickets, revenues and targets.