

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

### **Decision notice**

**Date:** 14 November 2019

**Public Authority:** London Borough of Haringey  
**Address:** Enterprise Centre  
639 High Road  
London  
N17 8AA

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

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1. The complainant has requested a surveyor's report related to fire door replacement works at their property.
2. The Commissioner's decision is that, on the balance of probabilities, the London Borough of Haringey ("the London Borough"), does not hold any further information to that already disclosed.
3. The Commissioner finds that the London Borough breached section 10(1) of the FOIA by not complying with section 1(1)(a) within the statutory timeframe of 20 working days.
4. Over the course of the Commissioner's investigation, the London Borough located some further information it considered to fall within the scope of the complainant's request. The Commissioner notes that the London Borough breached section 1(1)(a) of the FOIA by not including this in their initial response. However, the Commissioner considers the London Borough to have rectified this by disclosing this information to the complainant.
5. The Commissioner does not require the London Borough to take any further steps.

## Background to the request

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The request in this instance relates to fire door replacement works carried out by subcontractors on behalf of the London Borough as part of a wider fire safety improvement programme. As part of this programme, front doors in various council properties were scheduled to be replaced in order to ensure compliance with current fire safety regulations. The complainant in this case is the leaseholder of a property scheduled for a replacement door.

## Request and response

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6. On 17 September 2018 the complainant wrote to Homes for Haringey and requested information in the following terms:

*"Please can I make a Freedom of Information Act request for the below mentioned report and immediately accompanying correspondence from Wates Living Space to Homes for Haringey in relation to this report. Please send by email. I should be quite quick to forward this.*

*The report from Ashford Commercial will detail a survey undertaken at my flat [address redacted] on 29 August 2018. The major works team should have this report"<sup>1</sup>*

7. The London Borough responded on 24 October 2018. It disclosed some information it considered fell within the scope of the request.
8. In their internal review request of 24 October 2018 the complainant stated that they had not been provided with a copy of the following report:

*"the surveyor's report that Wates has sent HfH [Homes for Haringey] and associated correspondence related to the survey on the feasibility of undertaking works to be compliant with Building Codes related to the fire door change, and the knocking out of the nib supporting the door frame to do this."*

9. Following an internal review, the London Borough wrote to the complainant on 8 February 2019. It stated that no further information was held within the scope of the request other than that already disclosed to the complainant.

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<sup>1</sup> Homes for Haringey is an Arms Length Management Organisation (ALMO) responsible for managing the London Borough's council housing. In this instance, Wates is the subcontractor appointed by Homes for Haringey to carry out a fire safety improvement programme (including the replacement of front doors with a new certified fire door).

10. At internal review, the London Borough noted that they responded to the complainant's initial request on 24 October 2018 and so failed to comply with sections 1(1) and 10(1) of the Act within the statutory timeframe of 20 working days.

## **Scope of the case**

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11. The complainant contacted the Commissioner on 13 March 2019 to complain about the way his request for information had been handled.
12. The Commissioner considers the scope of this case to be whether the London Borough was correct in stating that it does not hold any further information within the scope of the complainant's request.

## **Reasons for decision**

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### Held/Not Held

13. 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.*

14. Where there is a dispute between the information located by a public authority, and the information a complainant believes should be held, the Commissioner follows the lead of a number of First-tier Tribunal (Information Rights) decisions in applying the civil standard of the balance of probabilities.

### *The Complainant's position*

15. It is the complainant's position that the London Borough holds further information falling within the scope of his request.
16. It is the complainant's view that the London Borough holds a report containing measurements specific to the original front door in his property. The complainant asserts that this report should have been provided to the London Borough after a subcontractor visited his property on 29 August 2018 to make various measurements of the existing front door and frame.

17. According to the complainant, the report provided to him by the London Borough in response to his request only contains details of the replacement fire door intended for his flat.
18. To support their submissions, the complainant refers to email correspondence between himself and a Senior Resident Liaison Officer at Wates which he considers evidences the London Borough holds a surveyor's report specific to the original door in their property:

*"To me there appears to be another report or piece of correspondence referred to in [name redacted] email of 03 September 2018"*

#### *The London Borough's position*

19. It is the London Borough's position that no further information is held falling within scope of the complainant's request.
20. At internal review, the London Borough consulted the relevant officers in Wates and Homes for Haringey separately in order to establish whether any further information was held within the scope of the request. Both Wates and Homes for Haringey asserted that no other reports or correspondence were held other than that already disclosed to the complainant.
21. With regard to the front door survey report provided to the complainant in the initial response to their request, the London Borough confirmed that this is the only report provided to them by the subcontractor. The London Borough states that this is the only report referred to in the above mentioned email correspondence of 3 September 2018. This is also confirmed by the Senior Resident Liaison Officer who sent the email.
22. According to the London Borough all information falling within the scope of the complainant's request has already been provided to him.

#### *The Commissioner's view*

23. The Commissioner's view is that, on the balance of probabilities, the London Borough does not hold any further information to that already disclosed to the complainant.
24. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. Finally, she will consider any reason why it is inherently likely or unlikely that information is not held.

25. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
26. The Commissioner notes that the complainant presents strong grounds to suggest that the London Borough holds further information falling within the scope of the request. The complainant has provided copies of email correspondence which show that a contractor visited their property for the purpose of completing various surveying activities related to the fire door replacement works.
27. The complainant clearly considers the London Borough to hold an additional report containing information specific to the original front door and frame at their property. The Commissioner does not consider it unreasonable to suggest that a report may have been produced following the subcontractor's visit to the property.
28. From the information provided to her, the Commissioner considers the London Borough to have interpreted the request correctly and have carried out relevant and thorough searches for information falling within the scope of the request. At internal review, the London Borough contacted the relevant officers at Homes for Haringey and the subcontractor responsible for carrying out the fire door replacement works. Following searches of existing email correspondence, both of these officers confirmed that no further information was held relevant to the request.
29. The Commissioner has considered the complainant's argument that an additional report was sent to Homes for Haringey by the subcontractor in their email correspondence of 3 September 2018.
30. As mentioned previously, over the course of the Commissioner's investigation the London Borough revisited the request and located additional information that they considered fell within the scope of the complainant's request. The London Borough provided this to the complainant as part of their investigation into the complaint.
31. The subcontractor has since confirmed with the London Borough that the report referred to in this correspondence is the report already provided to the complainant. The Commissioner cannot see evidence to suggest the contrary.
32. The Commissioner also notes that, prior to their request, the complainant engaged in considerable correspondence with the London Borough, Homes for Haringey and the relevant subcontractor to establish whether a further report was held specific to their property.

33. On the basis of the responses provided to the complainant by the London Borough, and the submissions provided to her over the course of her investigation, the Commissioner is satisfied that, on the balance of probabilities, the London Borough has disclosed all of the information it holds within the scope of the complainant's request.

## Right of appeal

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34. 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@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)

35. 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.
36. 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 .....**

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