

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

### **Decision notice**

**Date:** 14 February 2023

**Public Authority:** London Borough of Lambeth

**Address:** Lambeth Town Hall

Brixton Hill

London

SW2 1RW

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

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1. The complainant requested that the London Borough of Lambeth (the Council) provide information in relation to a scaffold/Health and Safety incident that the complainant alleges occurred in May 2017.
2. The Commissioner's decision is as follows:
  - On the balance of probabilities, the Council holds no recorded information relevant to the complainant's request and has complied with section 1(1)(a) of FOIA.
3. The Commissioner therefore does not require the Council to take any corrective steps.

### **Request and response**

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4. On 23 November 2020, the complainant wrote to the Council and requested information in the following terms:

"Please provide the following information in relation to the scaffold/Health and Safety incident of 25 May 2017:

  - Dates of all meeting/s held, names of all attendees, organisation name of attendees of all attendees as well as minutes of a meeting/s held.
  - All telephone notes, email correspondence as well as written correspondence.
  - All internal communication as well as all external communication.

- All names, dates and times of communication exchanged.”
5. The Council responded in an email of 23 February 2021 and stated they did not hold the requested information. The response did not detail any information about searches carried out or why the information was not held.
  6. The Council provided an internal review on 30 March 2021 in which it maintained its original position.
  7. The Council initially considered the request under EIR however, during the Commissioner’s investigations the Council changed their position and reconsidered the request under FOIA.
  8. On 12 January 2023 the Council provided the complainant with a revised response which maintained its original position.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 10 May 2021 to complain about the way their request for information had been handled. The complainant was not satisfied with the Council’s response that no information is held as there was correspondence between the complainant and the Council at the time of the scaffold/Health and Safety incident.
10. The Commissioner has considered whether, on the balance of probabilities, the Council holds recorded information within scope of the complainant’s request and whether it has complied with section 1(1) of FOIA.

### **Reasons for decision**

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11. 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.
12. FOIA concerns recorded information only. It does not require a public authority to answer general questions, provide opinions or explanations.
13. During this correspondence, the Commissioner asked the Council to clarify what searches it had carried out to establish the information requested was not held.

14. The Commissioner also asked the Council to clarify whether any external organisations such as the scaffolding provider, had been contacted to see if they held any information relating to the incident which would be held on behalf of the Council for the purposes of FOIA.
15. There was protracted correspondence from 3 February 2022 to 10 January 2023 during which Lambeth repeatedly failed to clarify its position and failed to provide any substantive response to the Commissioner's questions.
16. On 13 September 2022 the Commissioner wrote to the Council and said that it expected a full and final response to be provided. In response the Council said it would be reviewing its position and reconsidering the request under FOIA.
17. The Council issued a revised response to the complainant on 12 January 2023. The response maintained the original position and confirmed no information was held within the scope of the request.
18. The Commissioner considers that the recent response provides a clearer explanation around what the Council has done to determine whether the information is held.
19. In its revised response of 12 January 2023 the Council detailed that it had carried out searches of its corporate iCasework system which is used to capture complaints and information requests and found no information.
20. The Council also searched its Housing management systems and found that although some information was held in relation to the property of the complainant, there was nothing within scope of the request.
21. Further to these searches the Council contacted the external contractor to establish if any information within the scope of the request may be held and held on behalf of the Council. The external contractor confirmed that no related information was held.
22. The Commissioner recognises that although there is correspondence between the complainant and the Council regarding the incident, he accepts that the Council have policies regarding how such incidents are logged and recorded and that this incident may not have met the threshold for recording.
23. Having considered all the circumstances, the Commissioner therefore accepts the Council's position that it does not hold the recorded information. As such, the Commissioner has decided that the Council has complied with section 1(1) of FOIA.

## 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.....**

**Jonathan Slee  
Senior Case Officer  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**