

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

**Date:** 20 March 2024

**Public Authority:** London Borough of Tower Hamlets  
**Address:** Town Hall  
160 Whitechapel Road  
London  
E1 1BJ

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to a particular traffic reduction scheme. London Borough of Tower Hamlets ("the Council") disclosed some information. The complainant considers that further information is held by the Council.
2. The Commissioner's decision is that, on the balance of probabilities, the Council is correct when it says that it does not hold any further information falling within the scope of the request.
3. The Commissioner does not require the Council to take any further steps.

**Request and response**

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4. On 3 October 2023, the complainant wrote to the Council and requested information in the following terms:  
  
"In November 2020, new signage was installed on the entrance to Cleveland Way, E1 restricting entry to motor vehicles except for access. This means that no vehicle should enter the street unless accessing one of the properties in the one-way section or using the limited number of on-road parking bays.

- [1] Please provide the date(s) on which enforcement of the “no motor vehicles except access” restriction has taken place for Cleveland Way, E1 since its installation in November 2020 and by what means (e.g. mobile camera, in-person etc).
- [2] Please provide the number of enforcement notices (or other relevant penalties) issued to motorists contravening that restriction since its installation in November 2020.
- [3] Please provide all emails, reports, meeting notes and other internal documents relating to the installation, enforcement and other associated matters with that restriction.
- [4] Please provide traffic flow reports for at least one date prior to the installation and any since. These can be summaries and in whatever format is easiest to provide, but should allow for comparison of before and after.”
5. The Council responded on 10 October 2023. It disclosed some information, and advised that some of the information described in the request was not held.
6. Following an internal review the Council wrote to the complainant on 10 November 2023. It stated that the information that is held by the Council has already been disclosed.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 16 November 2023 to complain about the way their request for information had been handled.
8. During the course of his investigation the Commissioner noted that the traffic reduction scheme for Cleveland Way was funded by Transport for London’s (TfL) ‘London Streetspace’ programme. TfL’s website states:
- “The Streetspace for London guidance supported boroughs to identify and plan improvements to help people safely walk, cycle and use public transport during the coronavirus pandemic. We wanted to avoid people using their cars where possible, helping us reduce congestion, clean London’s air and help people be healthier.”
9. Depending on the precise terms of a traffic management order, the environmental impact may be large or small. Nonetheless, good management of traffic should reduce emissions by allowing traffic to flow more smoothly or by promoting the use of less-polluting forms of transport. The Commissioner is satisfied that the traffic reduction

scheme implemented on Cleveland Way is a measure intended to affect the elements of the environment. Therefore, the Council should have considered this request in accordance with the EIR instead of FOIA.

10. However, whilst being procedurally correct, in this case the legislation would make no material difference to what information the Council held within the scope of the request. Therefore, the Council's arguments apply equally under both pieces of legislation.
11. The Commissioner therefore considers the scope of his investigation to be to determine whether the Council is correct when it says that it does not hold any further information within the scope of the request.

## **Reasons for decision**

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### **Regulation 5(1) – duty to make environmental information available on request**

12. Under regulation 5(1) of the EIR, a public authority must make environmental information available on request if it holds the information and it is not subject to an exception.
13. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner - following the lead of a number of First-tier Tribunal decisions – must decide whether, on the civil standard of the balance of probabilities, the public authority holds any further information which falls within the scope of the request.

### **The complainant's position**

14. The complainant explained that their primary concern was that the Council claims to hold no information within the scope of part 3 of their request – i.e. documentation that would demonstrate the decision-making process prior to the implementation of the restrictions.
15. The complainant considers that there must have been a meeting at some point where the decision was made to implement the restrictions, therefore there should be meeting notes, correspondence, emails or other related documentation, as well as requests for the appropriate notice to be made and work orders for the signage to be installed. The complainant further considers that the traffic surveys, which were disclosed in the Council's initial response to the request, would have been requested at some point, and then the analysis presented and discussed. The complainant considers that all of this activity would have been documented.

16. The complainant was also concerned that the Council's internal review response appeared to suggest that no further information was available due to the officer who was previously leading the project no longer working for the Council.

### **The Council's position**

17. During his investigation the Commissioner questioned the Council about how it would normally record information relating to a new traffic restriction, its practices relating to the handover of information when an individual leaves their employment at the Council, as well as the searches it had conducted to locate information relevant to this request.
18. The Council explained that it saves information of the nature being sought by this request in a shared folder, where other staff can access it as and when necessary. It confirmed that all documents from the shared folder relating to the traffic restriction on Cleveland Way have already been disclosed to the complainant.
19. The Council further explained that this project was completed in 2020-2021 and all relevant information was saved to the shared folder. The project was completed before the member of staff leading the project left the Council, therefore it did not need to be handed over to another Council officer.
20. The Council set out that the nature of this particular scheme – effectively 2 signs and a traffic management order – meant that it was optional to undertake a significant scheme design process that would produce the level of meetings, consultations and reports outlined by part 3 of the request. However, as this was considered such a small project, the Council stated that it was likely that discussions regarding the scheme were conducted in person, and that the service would not normally create a lot of information for small projects such as this one as it is not required.
21. The Council detailed the searches it conducted in order to provide its response to the request, explaining that it had now checked its shared folders multiple times and was clear that all information relating to this project had already been disclosed to the complainant. The Council also asked its IT department to check if the project lead's email account was still accessible. However, as the member of staff left their role at the Council over 18 months ago, the account had already been deleted in line with the Council's retention policy, going on to explain that under its current processes ex-employees' Outlook information is deleted 6 months after they have left.

### **The Commissioner's conclusion**

22. The Commissioner has considered both parties' positions. He acknowledges the complainant's expectation that the Council should hold further related information. However, the Commissioner cannot consider whether further information ought to be held, only whether it is, as a matter of fact, held. Based on the explanations provided by the Council, the Commissioner is satisfied that the Council has conducted appropriate and proportionate searches that would have located any further relevant information if it were held.
  
23. The Commissioner concludes that the Council has provided the complainant with the information it holds which relates to the request and, on the balance of probabilities, the Council is correct when it says that it holds no further information within the scope of the request. Therefore, the Commissioner is satisfied that the Council has complied with the requirements of regulation 5(1) of the EIR.

## **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.

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