

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 15 January 2018

Public Authority: London Borough of Islington Council

Address: Town Hall
Upper Street
Islington
London N1 2UD

Decision (including any steps ordered)

1. The complainant has requested information about road construction and maintenance, and traffic incidents, on a particular street in particular years. London Borough of Islington Council ('the Council') released some information and its position, which the complainant disputes, is that it holds no further relevant information.
2. The Commissioner's decision is that:
 - The Council has breached section 1(1) of the FOIA because it has not communicated to the complainant all the information it holds that falls within the scope of his request.
 - The Council also breached section 10(1) as it did not comply with section 1(1) within the required timescale.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation:
 - Release to the complainant any remaining information missing from the information it released to him on 15 February 2017.
 - Carry out further searches for information falling within the scope of the request and, if relevant information is found, release this to the complainant if it does not engage a Part II exemption.

- Otherwise formally confirm to the complainant that no further information is held.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 6 January 2017, the complainant wrote to the Council and requested information in the following terms:

"I was involved in a traffic incident on Copenhagen Street in August 2015, where I fell as the result of a badly constructed and/or badly maintained speed bump.

As a result of the conversations that I've had with your colleagues since then, I would now be grateful if you could now provide me with all information at your disposal, in written, electronic or any other format, as foreseen in the Freedom of Information Act (2000), relating to

(a) road construction and maintenance on Copenhagen Street, N1, in 2015 and 2016; and (b) traffic incidents on Copenhagen Street, N1, in 2015 and 2016."

6. The Council responded on 15 February 2017. It released information that it holds within the scope of parts (a) and (b) of the request, with some personal data redacted under section 40(2) of the FOIA. The released information included: information on inspections, 'works tickets', a 'streetworks report' and a 'complaints report' for the street in question. These cover the period 2015 and 2016.
7. The complainant requested an internal review on 27 February 2017. He considers that the Council holds further information, such as minutes, correspondence and road users' comments, that it has not released.
8. As a result of the Commissioner's intervention, the Council provided an internal review on 15 October 2017. In the review, the Council acknowledged that it had breached section 10(1) of the FOIA as it had not responded to the request within 20 working days. It also acknowledged that it had not provided an internal review when it was requested, explained why this had happened and apologised.

9. The Council went on to explain why it holds no further information within the scope of the request, including why it holds no information about the complainant's accident, and it detailed the searches it carried out.

Scope of the case

10. The complainant initially contacted the Commissioner on 2 May 2017 to complain about the way his request for information had been handled, as he had not received a response to his request for an internal review.
11. On receipt of the review, the complainant remains of the view that the Council holds further relevant information that it has not released.
12. The Commissioner's investigation has focussed on whether the Council has complied with its obligations under section 1(1) and section 10(1) of the FOIA.

Reasons for decision

Section 1 – general right of access to information

13. Section 1(1) of the FOIA says that anyone who requests information from a public authority is entitled (a) to be told whether the authority holds the information and (b) to have it communicated to him or her if it is held.
14. In its internal review, the Council explained to the complainant that, as part of its review, it had contacted its Highways Department, which had been responsible for providing the information for his request. The Council asked the Highways Department to review the request to make sure that all information that the Council holds had been sent to the complainant. The Highways Department had confirmed that there was no further data falling within the scope of the request that it could offer and that had not already been provided.
15. On receipt of the Highways Department's response the Council asked the Department a series of questions regarding the searches that were carried out when it had managed the request.
16. The Highways Department confirmed that all relevant information would be held electronically. It said it had undertaken searches on the Council's electronic traffic collision databases known as AccsMap and AccStat. All the information on these databases is sourced from Transport for London and/or the Department for Transport. Searches

were restricted to Copenhagen Street and covered the specified period in the request. No relevant information had been deleted or destroyed.

17. The complainant had queried why the Council held no information about his specific accident. The Council explained that that matter had been dealt with under the Highways Insurance process. The claim had been received on 20 August 2015 and the claim form stated that the cause of the alleged accident was that the site in question was badly constructed. As a result of the claim, a site investigation took place on 4 September 2015.
18. At the time of the investigation, the area was not deemed badly constructed and was confirmed safe for all users. No works or repairs were needed to be carried out and a denial of this accident was raised and passed to the Council's claims handlers who agreed with the Council's assessment.
19. In accordance with its usual processes, the Council said that the file was left open for six months, then closed after no further information had been received from the complainant. Based on this assessment, the accident the complainant was referring to was not recorded as an incident and therefore did not fall into the scope of his request or show on the searches the Council undertook.
20. The Council provided substantially similar explanations in its submission to her. However, in addition the Council said it had also searched for any information that might be held locally on devices by key officials, and on networked resources and emails. None was identified.
21. The Council explained that accident statistics are kept on record as they help form its road traffic polices/strategies, which help reduce the number of casualties on the road each year. The data is also used to track progress towards local and/or national targets for reducing the number of road casualties. It maintains year on year accident data for historical and benchmarking purposes. The Council provided the Commissioner with the relevant section of its retention schedule. This says that records relating to the matters covered by the request should be retained for up to six years; but again, the Council has confirmed that no information relevant to the request has been destroyed or deleted.
22. In a submission to the Commissioner dated 24 November 2017, the complainant raised three points. First, the complainant argues that a search of the internet identifies information that the Council holds on its own systems. He has provided as an example a particular Council 'Highways Handbook' that lists Copenhagen Street in a section about roadworks; information that the complainant considers falls within the

scope of his request. Having reviewed the Handbook, the Commissioner notes that it is dated 2013 and therefore its one reference to Copenhagen Street is outside the scope of the complainant's request.

23. Second, the complainant noted that the Council had provided him with a series of 'ledgers' but had not provided him with the underlying details behind each line in the ledgers, which record separate events or incidents. The complainant also pointed out that at least one line of information in one of the reports had been 'cut off' mid-line. For example, the 'Description' line in 'LACODE 142031' in the sheet named 'Woolfe Complaints'.
24. Third, the complainant notes that it has been reported in the media that Copenhagen Street is one of the most frequently dug-up streets and therefore disputes that the Council holds no further information relevant to his request.
25. The Commissioner has noted that the Council confirmed that no relevant information has been deleted or destroyed and that at the time of the request, all the relevant information the Council held was that summarised on the various reports ('ledgers') it had provided to the complainant.
26. However, the Commissioner was not entirely convinced that the Council held no further relevant information. This is because of the incomplete information referred to at paragraph 23 and because the released information does not include any details of what action, if any, was taken in response to complaints, incidents and accidents concerning the street in question.
27. On 8 December 2017, the Commissioner contacted the Council and asked for clarification on these points.
28. When the Council did not respond, the Commissioner contacted it on two further occasions in writing and three further times by telephone but the Council has not responded and provided her with the clarification she sought. The Commissioner has therefore made her decision on the information at her disposal at this time.
29. Because the Commissioner considers it would be unusual for the Council not to hold information on the closure/sign-off of each reported incident, and because of the incomplete information referred to above, she is not satisfied the Council has fully complied with section 1(1) of the FOIA.

Section 10 – time for compliance

30. Section 10(1) of the FOIA says that a public authority must comply with a request as soon as possible and within 20 working days following the date of receipt of the request.
31. In this case, the complainant submitted his request on 6 January 2017 and did not receive a response until 15 February 2017. The Council therefore breached section 10(1) on this occasion.

Right of appeal

32. 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

33. 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.
34. 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

Pamela Clements
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