

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

### **Decision notice**

**Date:** 6 April 2022

**Public Authority:** Lambeth Council  
**Address:** Lambeth Town Hall  
Brixton Hill  
London  
SW2 1RW

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

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1. The complainant has requested information about the rights and obligations of Lambeth Council when it has cause to enter a residential property - generally and in the case of one specific property.
2. The Commissioner's decision is as follows:
  - Lambeth Council ('the Council') has breached section 10(1) of FOIA as it has not provided a response to the complainant's request of 26 February 2021.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
  - Provide the complainant with a response to their request of 26 February 2021 that complies with FOIA.
4. The Council must take this step 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

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5. The Council had written to the complainant in correspondence dated 24 February 2021. In this correspondence the Council describes a request the complainant had submitted as being the following:

“Under what circumstances can Lambeth Council legally enter a resident's property without a warrant of entry signed by the Court?

Under what circumstances can Lambeth Council legally withhold the copy of the warrant of entry from the resident of a property?

Under what circumstances can Lambeth Council legally withhold the full names of Lambeth Officers who enter a residents' property?

Under what circumstances can Lambeth Council legally wonder around a residents' property without a warrant of entry and without the secure residents' consent?

Under what circumstances can Lambeth Council legally wonder around a residents' property without a warrant of entry whilst the secure resident is not at the property?

Under what circumstances can Lambeth Council legally attempt to open a bedroom door at a residents' property without a warrant of entry and without knocking on the door first?

Under what circumstances can Lambeth Council legally provide false information to the lodgers of a residents' property that causes (or has the potential to cause) alarm and distress?”

6. In its correspondence, the Council gave this request the reference number IRN2089001 but did not note when it was received. It advised the complainant that the information they had requested “...is not held by Lambeth Council. This is because the questions do not ask to access recorded information.”
7. On 25 February 2021 the complainant asked the Council to review its response.
8. On 26 February 2021 the complainant then wrote to the Council and requested information in the following terms:

“Please provide all of the recorded information Lambeth Council holds in relation to the following:

Legal rights which permit Lambeth to enter a residents' property without a warrant of entry.

Legal rights which permit Lambeth to withhold the warrant of entry from the resident of a property.

Legal rights which permit Lambeth to withhold the names of Lambeth Officers who enter a residents' property.

Legal rights which permit Lambeth to walk around a residents' property without a warrant of entry and without the secure residents' consent.

Legal rights which permit Lambeth to walk around a residents' property without a warrant of entry whilst the secure resident is not at the property.

Legal rights which permit Lambeth to attempt to open a bedroom door at a residents' property without a warrant of entry and without knocking on the door first.

Legal rights which permit Lambeth to provide false information to the lodgers of a residents' property (that causes or has the potential to cause alarm and distress).

A copy of warrant of entry Lambeth obtained in order to enter this property [redacted] on [redacted].

A copy of the protocols that Lambeth must follow in order to enter a residents' property without a warrant of entry.

A copy of the protocols that Lambeth must follow in order to enter a residents' property without a warrant of entry and walk around a residents' property without the secure residents' consent.

A copy of the protocols that Lambeth must follow in order to enter a residents' property without a warrant of entry and walk around a residents' property whilst the secure resident is not at the property.

A copy of the protocols that Lambeth must follow in order to open (or attempt to open) a bedroom door at a residents' property without knocking on the door first.

In what situations can Lambeth enter a residents' property without a warrant of entry.

In what situations can Lambeth withhold the warrant of entry from the resident of a property.

In what situations can Lambeth withhold the names of Lambeth Officers who enter a residents' property.

In what situations can Lambeth walk around a residents' property without a warrant of entry and without the secure residents' consent.

In what situations can Lambeth walk around a residents' property without a warrant of entry whilst the secure resident is not at the property.

In what situations can Lambeth attempt to open a bedroom door at a residents' property without a warrant of entry and without knocking on the door first.

In what situations can Lambeth provide false information to the lodgers of a residents' property (that causes or has the potential to cause alarm and distress).

Please keep all internal as well as external communication in relation to this case in writing via email with all party.

Please provide a reference number for this case and confirm when I can expect to receive the requested information."

9. When they did not receive a response to this new request the complainant contacted the Council and the Council advised them that it had given their "enquiry" the reference IRN2089001, that it had been "raised as an internal review" and they could expect to receive the internal review by 25 March 2021.
10. On 18 March 2021 the complainant advised the Council that it had given the reference IRN2089001 to an earlier request they had submitted to it, on 1 February 2021. The complainant confirmed that their request of 26 February 2021 was a new request and asked the Council to provide them with a new reference number.

### **Scope of the case**

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11. The complainant contacted the Commissioner on 12 April 2021 because they considered they had not received a response to their request of 26 February 2021.
12. The Commissioner wrote to the Council on 14 May 2021 and asked it to review whether it considered that the complainant's correspondence of 26 February 2021 to be a request for an internal review with regard to an earlier request, or a new request. He instructed the Council to provide the complainant with either an internal review response or a new response.

13. On 8 June 2021, the Council provided the Commissioner with a 'screenshot' that showed that it had provided the complainant with an internal review on 22 March 2021 in which it had confirmed that its "previous response was correct".
14. The Council also described its correspondence of 24 February 2021 as its "response".
15. The Commissioner has reviewed the correspondence the complainant has sent to him and the correspondence that the Council has sent to him. This includes a submission the Commissioner received from the Council on 25 March 2022 in which the Council discusses section 40 of FOIA, which concerns personal data.
16. Despite what the Council has indicated to him the Commissioner understands that the Council's correspondence to the complainant of 24 February 2021 was a response to their request of 1 February 2021, to which it had given the reference IRN2089001. Its internal review of 22 March 2021 was a review of its 24 February 2021 response.
17. As far as the Commissioner can see the complainant has not received a response from the Council to their new request of 26 February 2021. While it is on broadly similar matters as those in the 1 February 2021 request, it is nonetheless a new request. It also seems to the Commissioner that the request of 26 February 2021 may have been the complainant's attempt to frame their request more clearly as a request for recorded information, in light of the response they received to their 1 February 2021 request.
18. The Commissioner's investigation has therefore focussed on the Council's obligations under section 1(1) and section 10(1) of FOIA.

## **Reasons for decision**

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19. 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.
20. Under section 10(1) a public authority must comply with section 1(1) as soon as possible and within 10 working days following the date of receipt of the request.

21. The complainant submitted a new request for information to the Council on 26 February 2021 to which the Council has not responded. The Council has therefore breached section 10(1) of FOIA.

## Right of appeal

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22. 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)

23. 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.
24. 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

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