

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 14 February 2023

Public Authority: The Royal Borough of Greenwich

Address: The Woolwich Centre
35 Wellington Street
Woolwich
SE18 6HQ

Decision

1. The complainant requested information from the Royal Borough of Greenwich ("the Council") relating to West Greenwich Low Traffic Neighbourhood.
2. The Commissioner's decision is that some of the withheld information does not engage regulation 12(4)(e) (internal communications). The remainder of the withheld information does engage regulation 12(4)(e), but the balance of the public interest favours disclosure.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Disclose the withheld information making any appropriate personal data redactions.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 26 April 2022:

"Please may I make some requests for information under the Environmental Information Regulations.

- 1) In the decision report regarding the decision by [name redacted] to allow the West Greenwich Low Traffic Neighbourhood expire (https://committees.royalgreenwich.gov.uk/Decisions/tabid/67/ctl/ViewCMIS_DecisionDetails/mid/391/Id/1596/Default.aspx) addendum report, reference is made to a replacement scheme. Please may you provide all information you possess on this replacement scheme.
 - 2) Please may you provide copies of all correspondence sent between [name redacted], [name redacted], [name redacted], [name redacted] and [name redacted] concerning the West Greenwich Low Traffic Neighbourhood sent between 14 February 2022 and 25 February 2022
 - 3) If there was a Labour Party Meeting where the West Greenwich Low Traffic Neighbourhood was discussed between 14 February and 25 February 2022, please may any minutes or reports prepared relating to the West Greenwich Low traffic Neighbourhood be released."
6. The Council refused to provide information within the scope of parts 1 and 2 of the request citing regulation 12(4)(e) (internal communications) of the EIR as its basis for doing so. It denied holding information within the scope of part 3 of the request.

Reasons for decision

7. This reasoning covers whether the Council is entitled to rely on regulation 12(4)(e) of the EIR to withhold the information within the scope of parts 1 and 2 of the request.
8. Regulation 12(4)(e) provides an exception for information which constitutes an 'internal communication'. In order for the exception to be engaged it needs to be shown that the information in question constitutes a communication within one public authority, specifically, the authority to which the request is made.

9. The Commissioner has viewed the withheld information which consists of multiple emails relating to West Greenwich Low Traffic Neighbourhood. The Commissioner is satisfied that some of the withheld emails constitute internal communications as they have been sent by Council staff members to other Council staff members. This information engages regulation 12(4)(e).
10. However, the Commissioner notes that some of the withheld emails were sent by external individuals to Council staff members, or to external individuals by Council staff members. The Commissioner does not consider these emails to constitute internal communications and therefore, this information does not engage regulation 12(4)(e). The Commissioner will now go on to consider the public interest test in relation to the information which engages regulation 12(4)(e).
11. With regards to the public interest test, in its initial response to the request, the Council outlined the factors it has identified in favour of disclosing the withheld information. The Council acknowledged that there is a large amount of interest in the West Greenwich Low Traffic Neighbourhood scheme from the public. It also recognised that there is a strong public interest in the Council acting transparently over issues involving the West Greenwich Low Traffic Neighbourhood.
12. The Council also outlined its arguments in favour of maintaining its reliance on regulation 12(4)(e). The Council stated that there is a public interest in protecting the safe space for public authorities. It explained that it is important for Council officers to have a free space in order to discuss, deliberate and formulate its response to various parties in a full and frank way away from the public's view.
13. The Council stated that disclosure of the withheld information would inhibit officers ability to debate issues if contributors felt that their input would be disclosed to a wider audience. The Council considers that this could have an adverse impact on the Council's ability to consider all advice properly and fully include opinions without limitations.
14. The Council explained that the withheld information relates to discussions held between Council officers and Councillors about the West Greenwich Low Traffic Neighbourhood scheme. The Council considers that it would be in the public interest to allow Council officers to reach decisions away from external interference and distraction. The Council also considers that disclosure of the withheld information would undermine the Council's ability to obtain the best outcome and would prevent officers from being able to freely discuss different ways to approach the issues relating to the West Greenwich Low Traffic Neighbourhood scheme.

15. The Commissioner recognises that the Council needs a safe space to develop ideas and debate live issues away from external interference. He also recognises that Council officers need to be able to have free and frank discussions.
16. However, the Commissioner is aware that when the request was made, the Council had already made decision to remove West Greenwich Low Traffic Neighbourhood and published a report on the matter. The Commissioner considers that as West Greenwich Low Traffic Neighbourhood is no longer a live issue, there is little need for the Council to maintain a safe space to discuss and debate issues relating to West Greenwich Low Traffic Neighbourhood and therefore, he does not consider this argument to carry much weight.
17. Furthermore, having reviewed the withheld information, the Commissioner does not consider the withheld information to be overly sensitive in nature. Therefore, the Commissioner's decision is that the public interest in disclosure outweighs the public interest in maintaining the exception.

Right of appeal

18. 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

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. 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.
20. 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

Janet Wilson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF