

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

**Date: 30 June 2010**

**Public Authority:** London Borough of Tower Hamlets  
**Address:** 6<sup>th</sup> Floor  
Town Hall  
Mulberry Place  
5 Clove Crescent  
London  
E14 2BG

### Summary

---

The complainant requested information in the form of thirty six questions regarding the operation of the Council in the issuing of parking permits and penalty charge notices. The London Borough of Tower Hamlets ("the Council") responded to the complainant by providing information and specific answers to some of the questions. The Commissioner's decision is that the Council breached section 1(1)(a) as it did not provide a formal, specific response to all the individual questions. However, he has concluded that on a balance of probabilities the public authority does not hold any further information relevant to the request and has upheld its application of section 12(1) to one request. He also found the Council in breach of section 16(1) and ordered it to provide appropriate advice and assistance.

### The Commissioner's Role

---

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.

## Background

---

2. The complainant states that he applied for a parking permit from the Council on 18 February 2009 and was refused. The complainant instigated the complaints procedure regarding this refusal. On 13 March 2009 the Council issued a Penalty Charge Notice to the complainant which he made a further complaint about to the Council. In the context of these matters the complainant made the following requests for information.

## The Request

---

3. The complainant requested information on 14 April 2009. The questions comprising these requests can be found in Appendix 2 to this Notice.
4. The Council received a copy of a letter sent by the complainant on 17 April 2009 to a Councillor concerning a Penalty Charge Notice issued to the complainant on 13 March 2009 and subject to appeal. The Council responded to the complainant on 21 April 2009 and provided an explanation of the process appertaining to a Penalty Charge Notice.
5. On 23 April 2009 the complainant made further requests for information. These requests can be found in Appendix 2.
6. On 17 June 2009 the complainant reiterated his first two requests as a "freedom of information request".
7. On 18 June 2009 the complainant made further requests consisting of further questions on the same matter. Again the wording of these requests can be found at Appendix 2.
8. On 3 July 2009 the Council responded as a 'Stage 3 Complaint' response and addressed the eighteen points detailed in the requests of 14 April 2009.
9. On 15 July 2009 the Council revisited the same points and reiterated its responses as a response to the complainant's requests of 17 June 2009.

10. On 19 July 2009 the complainant wrote to the Deputy Chief Executive of the Council expressing general dissatisfaction and requesting his formal response to the content of the letter including the Deputy Chief Executive's view on the Council's reference to the Road Traffic Act of 1984.

## The Investigation

---

### Scope of the case

11. On 16 July 2009 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following points:
  - Those questions "marked up in bold red" amongst the questions asked in his requests. (See Appendix 1)
  - The Council's "reluctance to provide documentary evidence of the existence of the governance of "its parking service "which is required to exercise the authority they are exercising."
12. Those questions numbered 7, 9, 10, 21, 22 and 23 in Appendix 1 are not within the scope of this Decision Notice as the Commissioner considers these to be requests for the personal data of the complainant which is exempt from disclosure under the Act. Section 7 of the Data Protection Act 1998 ('the DPA') gives an individual the right to request copies of personal data held about them. This is referred to as the right of Subject Access. The correct access regime for this information would be the DPA. Section 7 of the DPA gives individuals the right to request access to personal data held about them by public authorities.
13. The Commissioner identified some repetition amongst the questions listed and therefore those questions numbered 17, 14 and 16 in Appendix 1 are not considered in the scope of the case as they request the same information as points 1, 13 and 15.
14. The complainant also raised other issues that are not addressed in this Notice because they are not requirements of Part 1 of the Act.

### Chronology

15. When the complainant contacted the Commissioner on 16 July 2009 his complaint was acknowledged on 23 July 2009. The Commissioner

noted from the information provided by the complainant that there had been a considerable amount of correspondence between the complainant and the Council. The Commissioner requested copies of the Council's letters referred to by the complainant. The Commissioner explained that he could not assess the accuracy of information disclosed or look into accusations of maladministration.

16. On 24 July 2009 the complainant responded with the following:

"I'm not asking the information commissioner to necessarily understand the complaint I have with London Borough of Tower Hamlets.

What I seek in my FOI request by and large is for

- LBTH to show me which LBTH committees have approved the way in which LBTH operates its parking permit process,
- To be given copies of guidance which LBTH claim to have received from public bodies in regard to this matter,
- And finally to be given copies of correspondence LBTH have had with the DVLA in regard to case ref TH40043084.

I do not believe any contextual information is really necessary for the Information Commissioner to ask London Borough of Tower Hamlets to provide the documents referred to and called for in the following list of questions."

17. On 28 July 2009 the Commissioner again requested the complainant to provide the following documentation:

- The initial requests for information
- The public authority's initial responses
- The request for a review of the response
- The public authority's review of its decision

18. On 28 July 2009 the complainant wrote to the Commissioner stating:

"I can assure you that the information you require will add absolutely nothing of any material consequence. They have no relevance to the delivery of information which I seek and which should be in the public domain."

19. On 6 August 2009 the Commissioner provided an explanation of the reasons for his requests for the appropriate documentation.

20. On 7 August 2009 the complainant wrote a letter to the Commissioner complaining about his staff. He did not provide the requested documentation.
21. On 14 August 2009 the Commissioner obtained the appropriate documentation from the Council and was able to progress the case towards allocation for investigation.
22. On 5 November 2009 the Commissioner wrote to the complainant for clarification of his complaint and the information he considered to be outstanding.
23. Also on 5 November 2009 the complainant responded to the Commissioner and refused to confirm the scope of his case.
24. On 10 November 2009 the Commissioner began his investigation with the first in a series of correspondence with the Council. As the complainant refused to confirm the scope of this complaint; the Commissioner has considered whether the Council has correctly responded to the requests as detailed in Appendix 1 with reference to the complainant's initial submission to the Commissioner as detailed in paragraph 11.
25. The Commissioner considered the questions asked and excluded those which were repeated or requested the same information. He also excluded those questions which he considered to be requests for the complainant's own personal data. He has gone on to investigate the Council's responses to the remaining questions.

### **Findings of fact**

26. The Council established its system for issuing parking permits by relying on the Traffic Management Orders and the Road Traffic Act 1984.
27. Local authorities refer online to the Traffic Management Act 2004 for guidance on their operations.
28. The different London Borough Councils accept different proofs of residency and of vehicle registration when issuing parking permits.
29. At the time of the request the Council was in the process of drafting a documented Parking Procedure.

## Analysis

---

### Substantive Procedural Matters

#### Section 1(1)

30. The Council failed to consider each of the complainant's points as a request under the Act. The Commissioner understands that some of the points were rhetorically expressed and some were statements of opinion. Notwithstanding this point the Commissioner notes the Information Tribunal decision in *Information Commissioner /Brighton & Hove City Council (EA/2006/0071)* where the Tribunal states:

*"...it is always possible that the Council may hold recorded information which answers that question: there may have been a report prepared for the Council setting out the pros and cons of different proposals, reaching a reasoned conclusion. However in most cases an individual reply will have to be drafted...neither EIR nor FOIA require public authorities to go to such lengths. The obligation is to provide recorded information, not to create a record so that an answer can be given..."*

31. The Commissioner therefore considers that the Council breached section 1(1)(a) of the Act in not individually considering each of the complainant's questions as FOI requests and confirming whether information was held in accordance with the Act for each individual request.
32. Notwithstanding the fact that the Council failed to deal with some questions as requests for information the Commissioner has gone on to investigate whether information is held in respect of the requests identified at paragraph 25 of this Notice. The Commissioner has focused on whether the public authority holds any information other than the information already provided to the complainant as a result of his requests. In investigating cases involving a disagreement as to whether or not information is in fact held by a public authority, the Commissioner has been guided by the approach adopted by the Information Tribunal in the case of *Information Commissioner v Environment Agency (EA/2006/0072)*. In this case the Tribunal indicated that the test for establishing whether information was held by a public authority was not certainty, but rather whether on a balance of probabilities, the information is held.
33. The Commissioner considered the questions which the complainant believes to be unanswered and eliminated those questions which requested the same information as others. The Commissioner asked

- detailed questions to investigate what, if any, recorded guidance had been relied upon in establishing the operating system for issuing parking permits. The Commissioner also asked who and what authority had made decisions on the specific requirements of acceptable or unacceptable proof of car ownership and residency. The Commissioner also asked why insurance documentation was not acceptable as proof of residency.
34. The Council provided answers compiled from those departments and individual Heads of Department involved with Parking Services. It explained that in relation to 'recorded guidance' no documents, other than the Road Traffic Act 1984 (RTA 1984) and Traffic Management Orders, existed. A statement of "authority" was not held. The Council referred the Commissioner to a website which provided general operational guidance for local authorities, not specific guidance to this particular public authority. There was no guidance concerning insurance documentation at the time of the request and the Council provided the Commissioner with a spreadsheet indicating that at least seven other London Boroughs do not accept insurance documentation as proof of residency. Therefore in response to question 1, no documentation exists which provides authority to the Council to request the 'strongest possible proof of ownership'. Similarly there is no documented approval of the definition of 'strongest possible proof of ownership'.
  35. The Commissioner requested specific information on the Council's communication with the DVLA regarding the issues raised by the complainant, as requested on 18 June 2009. The Council explained that this information was "sought and received verbally". This is a standard practice. Consequently no documentary evidence is held and therefore cannot be provided in response to question 2 or 11. The verbal advice was simply incorporated into their decision as to what to accept as proof of ownership. The DVLA did not write to the Council to advise it not to accept the V5C2 as proof of ownership and therefore the Council cannot provide the information requested in question 3.
  36. Question 4 was addressed by the Council stating that it did not hold details of complaints on the subject of sending sensitive, legal documents through the post as the data is not broken down in such detail. The Council provided the information it held on complaints made against the parking service in general in the last five years.
  37. When questioned by the Commissioner on this point the Council conceded that although it didn't include this detail in its breakdown of complaints this did not mean that that it might not be found by reading through individual complaints files. The Council maintained however



that the costs of reading through all the parking service complaints files to identify if any such complaints had been made would exceed the appropriate limit. As the Council changed its position, from stating that the information was not held, to claiming that section 12(1) applied, the Commissioner has completed his analysis of the Council's response to question 4 later in this Notice under the heading 'section 12(1)'.

38. Question 5 was addressed in the Council's Stage 3 Complaint response where it explained that from January to May 2009 6984 residents' permits were renewed all of whom provided original documentation. The Council went on to explain that a new fast-track facility was introduced in June 2009 which means that permit holders may renew without providing any further proof providing that the fast track criteria are met. Question 6 assumes that an instruction was issued to 'relieve' the Council from examining the same original documentation in order to implement the fast track procedure. No such instruction was created.
39. The Commissioner asked for information regarding any changes in the process for issuing parking permits. He asked for information on any Procedures Manual held at the time of the requests.
40. The Council informed the Commissioner that the pages with information on parking for Procedures Manual are currently being drafted and will be available on-line. These pages had not been created and therefore did not form part of the Procedures Manual at the time of the requests. Process Maps for the issuing of permits were available and this information was provided to the complainant.
41. The Council initially relied on its experience of operating the parking permit scheme in providing answers to the complainant. These answers were later upheld by undertaking further searches and questioning of the Head of Parking services and other managers in his department at the request of the Commissioner. However, the Council could have provided greater evidence of its searches to the complainant.
42. The Commissioner acknowledges that his decision as to what would represent an appropriate search or search strategy is dependent on the circumstances of the case. In this case he considers that the operation of issuing parking permits and penalty charge notices functioned largely by accepted common practice. The Commissioner considers that the Council did not initially undertake a thorough consideration of any 'authorities' in place to inform the conduct of the Council. However, the Head of Parking Services explained to the Commissioner that the permit schemes were established over four years ago before his



appointment. He further explained that schemes had been developed "on the hoof" and work had been undertaken to "rationalise and tighten" the schemes in place. The Head also stated that the issue of who decides what is required and who has the authority to determine rules had been discussed in a recent audit of the department. The result of this discussion led to the conclusion that the authority to determine rules had not been delegated to the Chief Officer. To rectify this matter, recommendations to provide authority were included in the annual review of parking charges. The Commissioner therefore acknowledges that the information requested in questions 13 and 15 for a name and 'authority' for the Council's decisions to exclude interim DVLA ownership documents and insurance documents in the administration of parking permits was not documented and consequently not held. Similarly in question 19 the complainant assumes the existence of a process of authorisation of the Council processes which did not take place.

43. Question 18 of the request refers to a consultation exercise which was undertaken in 1996/7 to establish the need for a parking service. The complainant asked the Council for details of any consultation and authorisation that had taken place to make changes to the original agreement used as the basis for introducing the parking service. The Council explained that material from the original consultation was no longer held, in line with the Council's document retention policy. No information was held on authorising changes to the documentation requirements discussed in 1996/7 for the reasoning detailed in paragraph 42.
44. The Council explained to the complainant that the information requested in question 20 was not held. The cost of issuing interim permits is not separated out from the cost of providing permits as it is considered to be part of the same service.
45. The Commissioner considers that the complainant's focus is the legal standing from which the Council takes forward its parking permit operation. Over a period of extended correspondence, the legal department of the council reiterated to the Commissioner that the Council's practices with respect to parking permits have developed as a result of a number of statutes in place, principally the RTA 1984. It seems appropriate to the Commissioner that this is the case. It would be unrealistic to expect there to be a legislative provision that specifically envisages and deals with each and every case specific situation that might arise. Rather the Commissioner considers it appropriate that the Council would need to develop its own working practices within the broad legislative structure that is a key part of any Council's authority. Consequently the complainant's request in question

- 8 which specifies the request of an 'exact transcript' and 'exact documents' stating the powers given to council officers cannot be provided as no such transcript or document exists. Again in question 12 the complainant is seeking an authority that does not exist. His assumption is that the Council is withholding information, which was in fact verbal, on the basis of an 'authority' that cannot be provided for the reasoning given above.
46. The Commissioner considered the lists of questions and requests as detailed in Appendix 1 and also the summary of requests provided by the complainant to the Commissioner, as detailed in paragraph 16. Although the complainant emphasised the importance of the three bullet points in paragraph 16 he did not make a request to the Council for information on committees as detailed in his first bullet point. Consequently this information was not provided. The complainant's second point requests copies of the guidance used by the Council in this case. This guidance, comprising the applicable section of the Traffic Management Order, the Road Traffic Regulation Act 1984 and the Traffic Management Act 2004 had been provided and referenced online to the complainant during his ongoing complaints to the Council. However the complainant's refusal to accept that further guidance was not held resulted in his repetition of the request. The third question requests copies of correspondence between the Council and the DVLA which the Commissioner has already considered in paragraph 35.
47. During his investigation the Commissioner concluded that the Council had applied itself to providing the information it held regarding the issues it understood to concern the complainant. The information supplied was not identified as specific responses to the individual questions. In all but two of the questions in Appendix 1 the Commissioner accepts that recorded information was not held and could not be provided. The Commissioner acknowledges the Council's attempts to provide information around the issues covered by the requests, however in accordance with section 1(1)(a) of the Act the Council has a duty to confirm or deny if the information is held for each individual request.

### **Section 12(1)**

48. Section 1(1) places two separate obligations upon a public authority. The section 1(1)(a) duty to confirm or deny whether information is held, and the section 1(1)(b) duty to provide information that is held.
49. Section 12(1) provides that a public authority is not obliged to comply with the requirements of section 1(1), if the authority estimates that the cost of doing so would exceed the appropriate limit.

50. The appropriate limit for all public authorities except central government departments is £450. Staff costs are calculated at a rate of £25 per hour which equates to 18 hours of staff time. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 provide that for the purpose of its costs estimate a public authority may take into account the estimated costs of time spent :
- (a) determining whether it holds the information
  - (b) locating the information, or a document which may contain the information
  - (c) retrieving the information, or a document which may contain the information, and
  - (d) extracting the information from a document containing it
51. As stated at paragraph 37 above, the Council claimed that the cost of determining whether it held information to answer question 4 would exceed the appropriate limit.
52. The Council maintained that in order to establish how many, if any, complaints it had received on the subject of the requirement to send sensitive legal documents through the post it would have to manually read through all the 548 parking service complaints it had received in the last 5 years. It estimated that it could take up to 10 minutes per case to do this, but that in any case it would definitely take more than 2.5 minutes per case file which would exceed the 18 hour limit set by the fees regulations.
53. The Commissioner considers that 10 minutes per case is a generous estimate but accepts that it is reasonable to estimate that it would take more than 2.5 minutes per case to locate, open and read each case file. He therefore upholds the Council's application of section 12(1).

### **Section 16(1)**

54. Section 16(1) provides that it shall be the duty of a public authority to provide advice and assistance to persons who have made requests for information. Section 16(2) provides that where a public authority has conformed with the provisions of the section 45 Code of Practice it will be deemed to have met this duty.
55. The section 45 Code of Practice provides that where a public authority is not obliged to comply with a request for information because the costs of doing so would exceed the appropriate limit, it should where

possible assist the applicant in submitting a refined request that could be met within the appropriate limit.

56. As the Council did not rely upon section 12(1) until the Commissioner questioned its position in relation to question 4, it did not provide advice and assistance to help the complainant to submit a refined request. The Commissioner considers that the Council could have assisted the complainant in narrowing the timeframe covered by this request to one which could be met within the appropriate limit. He therefore finds the Council in breach of section 16(1) of the Act.

## The Decision

---

57. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the Act:

It correctly applied section 12(1) to request 4.

It complied with section 1(1)(a) in that it correctly confirmed that it held information for request 5.

It complied with section 1(1)(b) in that it provided information in response to request 5.

58. The Commissioner's decision is that the public authority did not deal with the following elements of the request in accordance with the requirements of the Act:

The Council breached the requirements of section 1(1)(a) by failing to confirm or deny whether it held information for requests 1, 2, 3, 6, 8, 11, 12, 13, 15, 18, 19 and 20, as listed in Appendix 1 to this Notice, and section 10(1) by failing to do so within twenty working days.

The Council breached section 17(5) by failing to provide the complainant with a refusal notice specifying its reliance upon section 12(1) of the Act for request 4.

The Council breached section 16(1) by failing to provide advice and assistance in relation to request 4, to assist the complainant in submitting a refined request that could be answered within the costs limit.

The Council breached section 10(1) by failing to confirm that it held information for request 5 within twenty working days.

The Council breached section 10(1) by failing to provide information for request 5 within twenty working days

## Steps Required

---

60. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act:
  - . Provide advice and assistance in accordance with the provisions of the section 45 Code of Practice, to assist the complainant in submitting a refined version of request 4 that could be answered within the appropriate limit.
61. The public authority must take the steps required by this Notice within 35 calendar days of the date of this Notice.

## Other matters

---

62. Although they do not form part of this Decision Notice the Commissioner wishes to highlight the following matters of concern:
63. Paragraph 15 of the introduction to the section 45 Code of Practice (the "Code") states:

"All communications in writing to a public authority, including those transmitted by electronic means, may contain or amount to requests for information within the meaning of the Act, and so must be dealt with in accordance with the provisions of the Act. While in many cases such requests will be dealt with in the course of normal business, it is essential that public authorities dealing with correspondence, or which otherwise may be required to provide information, have in place procedures for taking decisions at appropriate levels, and ensure that sufficient staff are familiar with the requirements of the Act and the Codes of Practice issued under its provisions."
64. Whilst the introduction to the Code does not form part of the Code itself, the Commissioner would echo its recommendations and reminds the Council that any written question to a public authority potentially



## Right of Appeal

---

66. 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,  
Arnhem House,  
31, Waterloo Way,  
LEICESTER,  
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

**Dated the 30<sup>th</sup> day of June 2010**

**Signed .....**

**Lisa Adshead  
Group Manager**

**Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**



## Legal Annex

### General Right of Access

**Section 1(1)** provides that -

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds

information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

### Time for Compliance

**Section 10(1)** provides that –

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

### Exemption where cost of compliance exceeds appropriate limit

**Section 12(1)** provides that –

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."

**Section 12(2)** provides that –

"Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit."

**Section 12(3)** provides that –

"In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases."

**Section 12(4)** provides that –

"The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

- (a) by one person, or
- (b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them."

**Section 12(5)** – provides that

"The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are estimated.

### **Duty to provide Advice and Assistance**

**Section 16(1)** provides that -

"It shall be the duty of a public authority to provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to persons who propose to make, or have made, requests for information to it".

## **Appendix 1: Refinement detailing the requests considered in this Decision Notice**

The numbering below has been added in order to provide clarity in referencing each point in the Decision Notice. The numbers do not reflect the complainant's numbering within his complaints.

The scope of the request:

- 9 points from the complainant's letter of 14 April 2009
- 3 points from the complainant's letter of 23 April 2009, and
- 11 points from the complainant's letter of 18 June 2009

Specifically the nine points from the 14 April 2009 letter are as follows:

1. "Please document both the authority for demanding the strongest possible proof of ownership and the approval of the definition of this.
2. Please send me a copy of the advice, which the DVLA has issued to LBTH in regard to LBTH's parking permit scheme.
3. Please provide me with written evidence from the DVLA in which they advise you not to accept the V5C2 as proof of ownership.
4. You acknowledge in your letter of 19 March 2009 that many other residents are unhappy with the requirement to send sensitive, legal documents through the post (V5C). Please provide data regarding how many complaints you have received on this subject and the parking service generally with the past 5 years.
5. Please provide me with statistics of how many permits are renewed and how many sets of original documents have to be provided as part of this renewal process.
6. Please document and provide me with the specific Council instruction, which relieves you of this duty from June 2009 onwards.
7. You asked in my letter of 21 March 2009 to return the original application I have made together with the cheque made out on 18 February for the car parking permit. When will I receive this?
8. I asked you in my letter of 21 March to document in precise terms where the powers you claim to have in seeking this information have been given to your officers (i.e. the exact transcript, the exact

documents required, the body giving the power, when this power was given etc.). When will I receive this?

9. I wrote to you in connection with parking ticket Th40043084 on 18 March 2009. Where is the response to this?"

The three points from the letter of 23 April 2009:

10. "Please document the sections of the Road Traffic Act of 2004 which reference LBTH and expressly prevent LBTH dealing with this as a complaint.
11. Please provide me with documentary evidence of this request for owner's details and the response provided by the DVLA.
12. Please document the exact legal authority which allows you to withhold this information."

All the eleven points from the letter of 18 June 2009:

13. "You state (Para 3 of your letter of dated 14<sup>th</sup> May) "that the council seeks to establish that the applicant is a person whose main residence is in Tower Hamlets and has a car that is registered to the same tower Hamlets address". Please document who and what authority has authorised the exclusion of the interim DVLA ownership document.
14. The DVLA produce this for the purpose of being a bona fide proof please document why LBTH does not.
15. You state (Para 3 of your letter of dated 14<sup>th</sup> May) "that the council seeks to establish that the applicant is a person whose main residence is in Tower Hamlets and has a car that is registered to the same tower Hamlets address". Please document who and what authority has authorised the exclusion of the insurance document. You have been provided with this insurance document. The insurance is for a year, its criminal offence to insure a car in my name, with me as the owner as the insurance documentation clear shows. Please document who and what authority has authorised the exclusion of the insurance document,
16. Both the insurance industry and the police accept that the name of the owner of the car is the name on the insurance document unless explicit stated otherwise. Please document who and what authority has authorised the exclusion of this basic practise.

17. You state (Para 3 of your letter of dated 14<sup>th</sup> May) of the need for the strongest possible proofs and the need for original documents. Please document who and what authority has authorised and defined the term "strongest proof". Please document who and what authority authorised and defined which document meets the definition of the term.
18. None of these standards applied when the public were consulted on the need for a parking service in 1996/97 (?). Please document who and what authority authorised this change in standard. Please document what consultation took place to alter the agreement originally made as the basis for the introduction of the parking service.
19. You have created a process, which you know full well would not work (for at least the first 6 weeks) in instances where a second hand car has being bought. . Please document where this deficient process was described to the appropriate authority in advance of its authorisation.
20. You have created a process, which you know full well would not work (for at least the first 6 weeks) in instances where a second hand car has being bought. . Please document the cost of issuing interim parking permits and the replacement full time permit. Please document who has authorised this additional expenditure.
21. You were provided with the V5C/2, which is issued by the DVLA. This contains all the information you require (per Para 10) i.e. the engine size and co2 emissions. Please document whom and by what authority has authorised that the information contained in the document and produced by the DVLA can be regarded as untrue.
22. Since 13<sup>th</sup> Feb you have written to me correspondence entitled "notice to owner" Please document why (when you believe there's easy money in it for LBTH your happy to regard me as the owner of the car), yet when LBTH are required to provide a parking permit I'm not the owner.
23. In order to pursue an action for a parking permit (see above point 10), LBTH has to identify the owner of the car, presumably with the DVLA or another authority. Please document the correspondence (with the DVLA or other authority) confirming that I own the car in question."

## **Appendix 2: Full set of the three sets of requests from which the outstanding matters have been shown in Appendix 1**

Questions from the letter of 23 April 2009

"The following questions are to be answered in addition to the 18 questions issued to you on 14<sup>th</sup> April 2009 in regard to complaint 1-37946462.

- 1) You state (para 2 of your letter of 21<sup>st</sup> April) that you cannot deal with the matter raised in regard to the issue of a penalty charge notice due to "legislation which governs the issue of an appeals procedures". Please document the sections of the Road Traffic Act of 2004 which reference LBTH and expressly prevent LBTH dealing with this as a complaint.
- 2) I wrote to both the parking Service and Councillor O'Flaherty on 18<sup>th</sup> March referencing the parking ticket issued on 13<sup>th</sup> March, explaining the mistake and referencing the fact that I had been trying to get a parking permit for 5 weeks at that point in time. (It goes without saying that had the permit being issued none of this would arise).
- 3) Please explain why this wasn't even acknowledged and plainly not taken into account in your letter of 16<sup>th</sup> April declining my appeal for common sense.
- 4) Please explain why it took you 35 days to respond and decline my appeal for common sense.
- 5) You state (para 5 of your letter of 21<sup>st</sup> April) that you apply for the owners details from the DVLA 14 days after you decline an informal appeal. Confirmation of the owners details being the starting point for enforcement. Be aware that this letter is dated 23<sup>rd</sup> April, you know what the situation is with regard to the appeal/complaints process enquiring into why I have not been given a parking permit, so if you progress the enforcement in a malign attempt to scam money from me whilst at the same time feigning the unlikely defence of point 1 above. You will have to account for this.
- 6) You state (para 5 of your letter of 21<sup>st</sup> April) that you seek the owners details from the DVLA in order to progress with the enforcement. Please provide me with documentary evidence of this request for owners details and the response provided by the DVLA.
- 7) Why is the Notice to Owner process not a matter of public record. Please explain why you are operating such a "loaded" legal process in which you have all the information and I have none. Please document the exact legal authority which allows you to withhold this information.

Questions from the letter of 14 April 2009

- 1) Your process requires the production of V5C document in order to obtain a parking permit. The DVLA aspire to issuing this document 6 weeks after they have received notification of the fact that I have purchased the car. You have admitted in writing that you were always fully aware of this time lapse. In effect your process is designed to ensure it cannot be completed. Please explain why you have done this?
- 2) Please explain why you have chosen the V5C as the proof for ownership. It is only ever required in the event of a sale (by the DVLA) or an accident/incident (by the Police) so serious that a criminal prosecution will follow. Why is it that LBTH require this in order issue a parking permit? Please document both the authority for demanding the strongest possible proof of ownership and the approval of the definition of this
- 3) In addition LBTH require the original V5C document. This document as you are aware effectively proves ownership, and allows the transfer of ownership; please explain why you insist on this original document given that its security is so compromised by virtue of being passed through the mail.
- 4) Given the ease with which the original of any V5C document passed to LBTH can be used for criminal purposes. Please explain why these documents are being processed by LBTH temporary employees?
- 5) You imply in your letter of 19<sup>th</sup> March 2009 that you are "following advise issued by the DVLA" in regard to insisting on the original V5C. Please send me copy of the advice, which the DVLA has issued to LBTH in regard to LBTH's parking permit scheme.
- 6) The DVLA document which serves in the interim between the sale of the car in question and the subsequent creation of the V5C is the V5C2. This is a document which the DVLA have created. I have provided this to you. Please explain why you will not accept this?
- 7) As you claim to be following advise given to you by the DVLA please provide me with written evidence from the DVLA in which they advise you not to accept the V5C2 as proof of ownership?
- 8) You were provided with a copy of my insurance certificate for the car. As you should know it would be a criminal offence if I had insured a car which I do not own. Given that you accept an insurance certificate as an alternative proof. Please advise what common sense you exercised by denying that my insurance certificate served this purpose?
- 9) You advise in your letter of 19<sup>th</sup> March 2009 "Our refusal to accept copies of supporting documents (i.e. proofs of residency and vehicle ownership) arises from the ready availability of IT hardware and software that can be used to create forgeries". You apply this to the requirement to present the V5C document but not the driving licence a copy of which you have readily accepted. Please explain why one document can be a copy and yet another must be original if you are really concerned with forged documents?



- 10) You acknowledge in your letter of 19<sup>th</sup> March 2009 that many other residents are unhappy with the requirement to send sensitive, legal documents through the post (theV5C). Please provide data regarding how many complaints you have received on this subject and the parking service generally with the past 5 years.
- 11) In the final paragraph of your letter of 19<sup>th</sup> March 2009 you attempt to represent present yourself as being reasonable by saying you're "investigating whether it might be feasible in some circumstances to not require original documents where a resident is renewing his application". As you are aware this "investigation" doesn't apply to me, as I'm not renewing the permit. Please explain what you meant by this and how it applies to my case?
- 12) In the final paragraph of your letter of 19<sup>th</sup> March 2009 you say you're "investigating whether it might be feasible in some circumstances to not require original documents where a resident is renewing his application". Please provide me with statistics of how many permits are renewed and how many sets of original documents have to be provided as part of this renewal process.
- 13) You state in paragraph 7 of your response to the stage 1 complaint dated 8<sup>th</sup> April that you're concerned with improving and simplifying the service. To this end you intend (in June 2009) resolving this issue and eliminating the need to produce the V5C. But only for renewals. This particular case is not a renewal. I have difficulty with the final statement in this paragraph "This should address your issue about having to send the original V6C". Please explain how this helps me secure my parking permit.
- 14) You imply you have to operate this way because you're so concerned with LBTH residents forging ownership documents for cars (but apparently have no problem with same level of risk associated with forged driving licences). Please explain this difference to me.
- 15) You have being operating the current regime as defined by council meeting (documentary proof to be advised see question 17). Please document and provide me with the specific council instruction, which relieves you of this duty from June 2009 onwards.
- 16) You were asked in my letter of 21<sup>st</sup> March to return the original application I have made together with the cheque made out on 18<sup>th</sup> February for the car parking permit. When will I receive this?
- 17) I asked you in my letter of 21<sup>st</sup> March to document in precise terms where the powers you claim to have in seeking this information have been given to your officers (i.e. the exact transcript, the exact documents required, the body giving the power, when this power was given etc). When will I receive this?

You will be aware that I regard what has gone on for the past 9 weeks as LBTH attempting to blackmail me in order to obtain information which it is not entitled to, has no legitimate authority to seek, and has no legitimate use

for this information. As a result of this I'm not only being greatly inconvenienced but also incurring significant costs for having to pay to park my car elsewhere whilst LBTH run this scam. I'm of the view that this is also a scam to generate a revenue stream by issuing parking violation tickets whilst you obstruct my being issued my permit

18) I wrote to you in connection with parking ticket Th40043084 on 18<sup>th</sup> March 2009. Where is the response to this?

Questions from the letter of 18 June 2009

- 1) You state (Para 3 of your letter of dated 14<sup>th</sup> May) "that the council seeks to establish that the applicant is a person whose main residence is in Tower Hamlets and has a car that is registered to the same tower Hamlets address". Please document who and what authority has authorised the exclusion of the interim DVLA ownership document.
- 2) The DVLA produce this for the purpose of being a bona fide proof please document why LBTH does not.
- 3) You state (Para 3 of your letter of dated 14<sup>th</sup> May) "that the council seeks to establish that the applicant is a person whose main residence is in Tower Hamlets and has a car that is registered to the same tower Hamlets address". Please document who and what authority has authorised the exclusion of the insurance document. You have been provided with this insurance document. The insurance is for a year, its criminal offence to insure a car in my name, with me as the owner as the insurance documentation clear shows. Please document who and what authority has authorised the exclusion of the insurance document,
- 4) Both the insurance industry and the police accept that the name of the owner of the car is the name on the insurance document unless explicit stated otherwise. Please document who and what authority has authorised the exclusion of this basic practise.
- 5) You state (Para 3 of your letter of dated 14<sup>th</sup> May) of the need for the strongest possible proofs and the need for original documents. Please document who and what authority has authorised and defined the term "strongest proof". Please document who and what authority authorised and defined which document meets the definition of the term.
- 6) None of these standards applied when the public were consulted on the need for a parking service in 1996/97 (?). Please document who and what authority authorised this change in standard. Please document what consultation took place to alter the agreement originally made as the basis for the introduction of the parking service.
- 7) You have created a process, which you know full well would not work (for at least the first 6 weeks) in instances where a second hand car has being bought. . Please document where this deficient process was described to the appropriate authority in advance of its authorisation.
- 8) You have created a process, which you know full well would not work (for at least the first 6 weeks) in instances where a second hand car has being bought. . Please document the cost of issuing interim parking permits and the replacement full time permit. Please document who has authorised this additional expenditure.
- 9) You were provided with the V5C/2, which is issued by the DVLA. This contains all the information you require (per Para 10) i.e. the engine size and co2 emissions. Please document whom and by what authority

- has authorised that the information contained in the document and produced by the DVLA can be regarded as untrue.
- 10) Since 13<sup>th</sup> Feb you have written to me correspondence entitled "notice to owner" Please document why (when you believe there's easy money in it for LBTH your happy to regard me as the owner of the car), yet when LBTH are required to provide a parking permit I'm not the owner.
  - 11) In order to pursue an action for a parking permit (see above point 10), LBTH has to identify the owner of the car, presumably with the DVLA or another authority. Please document the correspondence (with the DVLA or other authority) confirming the I own the car in question.