

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 13 October 2015

**Public Authority:** London Borough of Newham  
**Address:** Newham Dockside  
1000 Dockside Road  
London  
E16 2QU

#### Decision (including any steps ordered)

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1. The complainant has requested information from the London Borough of Newham ("the Council") relating to his property.
2. The Commissioner's decision is that the Council does not hold the information requested at request 3.
3. The Commissioner requires the Council to take no steps.

#### Request and response

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4. On 16 January 2015, the complainant wrote to the Council and requested information in the following terms:  
*"1. a copy of the report of your surveyors WCJ Esher  
2. the fee that Newham have paid for this survey carried out on 9.10.14  
3. the exact sum to be levied by Newham for my contribution towards the cost of repairs  
4. the name of the official or councillor who is responsible for giving me an exact sum even if he declines to give me the desired information."*
5. The Council responded to the complainant on 17 February 2015. It explained that the report requested in request 1 was not finalised and a copy would be sent once it had been finalised.

6. Upon receipt of this and after receiving advice from the Commissioner, the complainant contacted the Council and asked it to respond to all of the requests set out in his letter of 16 January 2015.
7. The Council responded on 30 June 2015 and provided a copy of the report that was sought in request 1.

### **Scope of the case**

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8. The complainant contacted the Commissioner on 4 July 2015 to complain about the way his request for information had been handled. Specifically he was unhappy with the fact that the Council had failed to address requests 2, 3 and 4.
9. The Commissioner contacted the Council on 10 July 2015 and advised it of the complaint he had received. He asked the Council to consider whether it held the information sought in requests 2, 3 and 4.
10. Following this, the Council wrote to the complainant on 16 July 2015. It provided the complainant with information within the scope of request 2. It further explained that the information sought in request 3 was not held by the Council. It also advised the complainant that in relation to request 4, the person responsible for giving the exact sum would be someone from Property Services.
11. The complainant contacted the Commissioner again on 20 July 2015 and expressed further dissatisfied with the response he had received from the Council. Specifically he believed the Council would hold information falling within the scope of request 3. He also noted that he had not been given the name of the individual who would be responsible for giving him the exact sum as set out in request 4.
12. The Commissioner contacted the Council to address the complainant's further concerns in relation to requests 3 and 4. Following this, information relating to request 4 was disclosed to the complainant. However the Council maintained its position that the information sought in request 3 was not held.
13. The Commissioner has therefore had to consider whether the Council holds any information falling within the scope of request 3.

## Reasons for decision

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14. Section 1(1) of FOIA states 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".*

15. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.

16. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).

17. The Council explained that only an estimate of the sum to be levied by the Council is held. The Commissioner is aware that this estimate has been provided to the complainant.

18. The Council explained that the complainant's contribution to the cost of repairs cannot be quantified at this stage because it is part of ongoing discussions with all parties concerns and which is subject to negotiation. It therefore maintained its position that the exact sum as sought in request 3 was not held.

19. Based on the Council's submissions, the Commissioner is satisfied that on the balance of probabilities, the information sought in request 3 is not held by the Council.

## Right of appeal

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20. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.
22. 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 .....**

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