

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 7 November 2017

**Public Authority:** Royal Borough of Kensington & Chelsea  
**Address:** The Town Hall  
Hornton Street  
London  
W8 7NX

### Decision (including any steps ordered)

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1. The complainant has requested information from the Royal Borough of Kensington & Chelsea ("the Council") relating to a property situated within the Borough. The Council provided some information to the complainant, however it stated that it did not hold any further information within the scope of her request.
2. The Commissioner's decision is that the Council does not hold any further information within the scope of the complainant's request other than that which has already been provided to her.

### Request and response

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3. On 10 August 2016, the complainant wrote to the Council and requested information in the following terms:

"Please may I have copies of any correspondence to or from the Council that relates to [named property] sent or received since 1<sup>st</sup> January 2015?

Please may I also see copies of any internal correspondence within the Council between its officers or other members of staff or Councillors that relates to [named property] sent since 1<sup>st</sup> January 2015?

Please may I also have details (the date it took place and the nature of issues discussed) of any meetings or telephone calls that have taken place between any members of staff or agents of the Council and any other person or organisation in relation to [named property] (eg the

property's owner or lawyers, architects, agents or any other person or organisation connected with [named property). I should like these details for the period 1<sup>st</sup> January 2015 to the present day."

4. The Council responded on 7 September 2016, enclosing information in response to the complainant's request. The complainant on the same date asked for an internal review, as she felt that the Council's response must be incorrect and that more information within the scope of the request must be held. In the same letter, she also asked for her request to be brought up to date, i.e. she was requesting information regarding the named property dated up to and including 7 September 2016. She also requested the following: -

"I would also like any details of any site visits made to the property or to the vicinity of the property by officials or Councillors – and in relation to Councillors, to know a complete list of who was present at the site visit."

5. Following an internal review the Council wrote to the complainant on 15 September 2016, providing two further e-mail chains in response to her original request. It stated that these had been missed previously and apologised for the oversight. It also provided information in response to the complainant's request for details of site visits to the property and who was present.
6. On 27 September 2016 the complainant wrote again to the Council, stating that she believed that it held further information within the scope of her request, which it had not disclosed.
7. On 25 October 2016 the complainant, not having received a response from the Council in relation to her e-mail of 27 September 2016, wrote to the Council to enquire as to the progress of her request.
8. On 31 October 2016 the complainant contacted the Commissioner to complain that she had still not received a response from the Council.
9. On 20 December 2016, the Commissioner wrote to the Council asking it to respond to the complainant's e-mails of 27 September and 25 October 2016. She requested that the Council respond on or before 9 January 2017.
10. On 11 January 2017 the Council responded to the complainant directing her as to where to find a particular building regulations notification which fell within the scope of her request. The complainant contacted the Commissioner stating that she believed that the Council held further information within the scope of her request and asked the Commissioner to investigate this. The Commissioner wrote to the Council on 28 June 2017.
11. The Council responded to the Commissioner on 26 July 2017.

## Scope of the case

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12. The Commissioner has considered the Council's handling of the complainant's request, in particular whether it holds more information within the scope of that request.

## Reasons for decision

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13. Section 1 of the FOIA states that any person making a request for information to a public authority is entitled to be informed in writing by the public authority whether it holds information within the scope of the request, and if so, to have that information communicated to him.
14. 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 might be held, the Commissioner – in accordance with a number of First Tier Tribunal decisions – applies the civil standard of the balance of probabilities.

The Commissioner will consider the scope, quality and thoroughness of the searches performed, and whether the searches were appropriate and adequate. She will consider any other explanations provided by the public authority for why the information is not held. The Commissioner will also consider the arguments or evidence provided by the complainant as to why they consider the requested information must be held.

15. The Council informed the Commissioner that it has checked with its Building Control manager and there are three applications on its system in relation to the named property. It further informed the Commissioner that certain information, in a prescribed form, needs to be supplied when an Initial Notice is submitted to the Building Control Office.
16. According to the Council, at the time the application in respect of this particular property was deposited, the information contained in the prescribed form, including the name and contact details of the applicant and the approved inspector, was transferred onto the Council's database and the form itself was destroyed. There are no other documents stored on the Council's database relating to an application in respect of the named property. The process has changed in the last year and new Initial Notice application forms are now scanned onto the Council's database.
17. The Council has informed the Commissioner that, if it did hold any information in relation to the property it would be held electronically. The Council has further informed the Commissioner that there would be

no business need to retain such information other than the requirements of regulation 30 of the Approved Inspectors Regulations 2000, which it has fulfilled.

18. Having considered the Council's response the Commissioner considers that it has performed adequate searches and that, on the balance of probabilities, no further information within the scope of the complainant's request is held by the Council.

## Right of appeal

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19. 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)

20. 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.
21. 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** .....

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