

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 8 March 2017

**Public Authority:** London Borough of Lambeth  
**Address:** Olive Morris House  
Brixton Hill  
London  
SW2 1RL

### Decision (including any steps ordered)

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1. The complainant has requested information from the London Borough of Lambeth ("the Council") about its spending of section 106 funds in relation to libraries over a period of seven years. The Council has provided information falling within the scope of the request. The Commissioner has investigated whether the Council has handled the request in accordance with the FOIA: specifically, whether it has provided all of the information falling within the scope of the request which it holds to the complainant, in accordance with section 1 of the FOIA.
2. The Commissioner's decision is that the Council has complied with its duty under section 1 of the FOIA. Accordingly, the Commissioner does not require the Council to take any steps.

### Request and response

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3. On 22 October 2016, the complainant wrote to the Council and requested information in the following terms:

*"I wish to request to see figures for total Section 106 funds directed to the Boroughs library service for each of the last 7 completed years,*

*along with the total amount spent via S106 funds in total for each respective year."*

4. The Council responded on 10 November 2016. It provided a table of figures setting out the amount of section 106 funding it had received and how much had been directed to libraries' projects for the years 2010-2017 inclusive.
5. The complainant returned to the Council on 11 November 2016. He explained that the figures provided did not match the Council's figures that had been published in its annual section 106 end of year reports.
6. The Council carried out an internal review, and on 14 November 2016 it provided the complainant with an amended table of figures.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 20 November 2016 to complain about the way his request for information had been handled. In particular, he stated that neither the table of figures provided on 10 November 2016, nor the amended one provided on 14 November 2016, was consistent with the Council's published annual section 106 end of year reports.
8. The Commissioner does not have jurisdiction to investigate the accuracy of information held by a public authority. Her role here is to investigate whether the request was handled in accordance with the FOIA.
9. The Commissioner considers that the scope of the case has been to investigate whether the Council has complied with section 1 of the FOIA and has provided the complainant with all of the recorded information falling within the scope of his request which it held at the date of the request.

### **Reasons for decision**

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10. Section 1 of FOIA states that:

*(1) 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.*

11. The Council has not disputed that it holds information falling within the scope of the complainant's request, and has sought to provide it to him.
12. In view of the complainant's concern that the information appears not to match information published elsewhere by the Council, the Commissioner has sought to determine whether the Council has provided the complainant with all of the recorded information which it held at the date of his request.
13. In making this determination, the Commissioner applies the civil test of the balance of probabilities. This test is in line with the approach taken by the Information Rights Tribunal when it has considered whether information is held (and, if so, whether all of the information held has been provided) in cases which it has considered in the past.
14. To investigate this complaint, the Commissioner has asked the Council a number of questions about the searches it has made to locate the information which the complainant seeks.

#### *The Council's representations*

15. In response to the Commissioner's question regarding how it had searched for information falling within the scope of the request, the Council explained that section 106 Agreements are stored on a networked electronic database called Exacom.
16. The Council had used the search term "Libraries" to retrieve relevant data from the database.
17. The Council acknowledged that its initial response to the complainant had been inaccurate, and offered the following explanation:

*"The difference in the reported figures (2011\_12 and 2014\_15) were due to omissions caused by the MS Excel Workbook auto calculation facility on switch-off mode. We apologise for this mistake. The other differences in the reported figures are due in part to bank interest accrued payments and in part from systems migration changes."*

18. The Council has assured the Commissioner that it cannot add any further data to the information previously provided.

#### *The Commissioner's decision*

19. The Commissioner has considered the representations made by the Council in respect of the complainant's request. In the absence of evidence to the contrary, the Commissioner accepts the Council's position that it does not hold information relevant to the complainant's

requests, other than the information the Council has already supplied to him.

20. The Council's representations are plausible and reasonable and they are likely to accurately reflect the information the Council holds.
21. The Commissioner is satisfied that the Council, on the balance of probabilities, does not hold any further information in respect of its spending of section 106 funds in relation to libraries over the relevant period.
22. It is the Commissioner's decision that the Council has complied with section 1 of the FOIA.

## Right of appeal

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23. 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)

24. 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.
25. 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** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**