

## Freedom of Information Act 2000 (FOIA)

### Decision notice

**Date:** 9 December 2020

**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 requested information from the London Borough of Newham (the LBN) about mosques. By the date of this notice the LBN had not issued a substantive response to this request.
2. The Commissioner's decision is that the LBN has failed to complete its deliberations on the balance of the public interest within a reasonable time and has therefore breached section 17(3) of the FOIA.
3. The Commissioner requires the LBN to take the following step to ensure compliance with the legislation.
  - Having confirmed that information is held within the scope of the request: either disclose the requested information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA.
4. The LBN 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 Act and may be dealt with as a contempt of court.

## Request and response

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5. On 11 June 2020, the complainant wrote to the LBN and requested information in the following terms:

*"In May 2020 Newham Council announced it had given permission for a number of mosques in the borough to publicly broadcast their call to prayer during Ramadan. I would be grateful to receive (i) minutes of all officer and elected representatives' discussions, committee meetings and similar about the issue; (ii) any and all legal advice that was given about the issue; (iii) internal and external Council email trails concerning the issue; (iv) copies of the original application(s) for the public broadcast(s) by the mosque(s); and (v) any prior assessment that was made concerning the likely impact of the Muslim call to prayer on (a) community cohesion in our multi-faith borough, and on (b) other-faith and no-faith refugees in Newham who are here having escaped persecution in Islamic countries."*

6. The LBN acknowledged the request on 15 June 2020.
7. On 9 July 2020, the LBN wrote to the complainant to explain that it held information relevant to their request, but that it would need to extend the time taken to complete its public interest test considerations in respect of unspecified exemptions under the FOIA. To date, a substantive response to the request has not been issued.

## Scope of the case

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8. The complainant contacted the Commissioner on 16 September 2020 to complain about the delay in the LBN's consideration of the public interest test.
9. On 12 October 2020 the Commissioner wrote to the LBN, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
10. The LBN contacted the Commissioner to explain that Covid-19 service pressures, including restricted access to office facilities for staff, left it unable to meet the deadline. The LBN requested a time extension in which to provide a response to the request for information and the Commissioner agreed to a fresh deadline of 4 December 2020.
11. On 3 December 2020, the LBN contacted the Commissioner once more to request a further time extension until 8 January 2021 in which to provide a response to the request for information, citing continued

Covid-19 service pressures. Whilst sympathetic to the difficult situation facing the LBN, the Commissioner is mindful that she must also balance the information rights of the complainant against those of the public authority in this case and this has influenced her decision to issue this notice.

12. The Commissioner has considered whether the LBN has complied with its obligations in relation to section 17 of the FOIA.

## Reasons for decision

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13. Section 1(1) of the 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."*

14. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and *"not later than the twentieth working day following the date of receipt"*.
15. Section 17(3) of the FOIA states that where a public authority is relying on a qualified exemption, it can have a "reasonable" extension of time to consider the public interest in maintaining the exemption or disclosing the information.
16. Although the FOIA does not define what constitutes a reasonable time, the Commissioner considers it reasonable to extend the time to provide a full response, including public interest considerations, by up to a further 20 working days. This means that the total time spent dealing with the request should not exceed 40 working days, unless there are exceptional circumstances. A public authority would need to fully justify any extension beyond 40 working days.
17. In this case, the total time taken by the LBN has exceeded 40 working days. The Commissioner, whilst sympathetic to the circumstances facing the LBN, finds that, by failing to complete its deliberations on the public interest within a reasonable time frame, the LBN has not complied with section 17(3).
18. The LBN is now required to finalise its public interest considerations under section 17(3) of the FOIA and respond to the complainant.

## **Other matters**

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19. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.

## 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@justice.gov.uk](mailto:grc@justice.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** .....

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