

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 8 February 2023

Public Authority: London Borough of Harrow
Address: Civic Centre
Station Road
Harrow
HA1 2XF

Decision (including any steps ordered)

1. The complainant has requested information regarding planning enforcement site visits between 9 April 2019 and 17 April 2019.
2. The Commissioner is satisfied, on the balance of probabilities, that Harrow Council does not hold the requested information.
3. The Commissioner does not require Harrow Council to take any steps.

Request and response

4. On 19 April 2021, the complainant wrote to Harrow Council and requested information in the following terms:

"Please can you provide a list of ALL planning enforcement site visits between 9th April 2019 and 17th April 2019.I want to know the following:
 1. postcode of site visit
 2. data/time of visit
 3. Chronological order of visits from start of day to end of day
 4. date/time the complaint was raised

5. Harrow area enforcement area - e.g. Harrow East or Harrow West
6. date/time complaint registered on Council's system".
5. On 17 May 2021, Harrow Council refused the request as it considered it to be vexatious.
6. The complainant requested an internal review. Harrow Council revised its position and said¹ as follows:
 - "The requested information is not recorded so we are unable to provide this to you".

Scope of the case

7. The complainant contacted the Commissioner 10 October 2021 to complain about the way his request for information had been handled. He opined that similar requests he had made to the public authority, had been replied to with information regarding the dates of visits, when the complaints were raised and when they were registered on relevant systems.

Reasons for decision

8. The requested information concerns planning matters. As such the Commissioner is satisfied that the information sought is environmental information under regulation 2(1)(a) and 2(1)(c) of the EIR.

Regulation 5 – duty to make environmental information available on request.

9. Under regulation 5(1) of the EIR, a public authority must make environmental information available on request if it holds the information and it is not subject to an exception.
10. Where there is a dispute between a public authority and a complainant as to whether all requested information falling within the scope of a request has been provided to the complainant, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide the matter based on the civil standard of on the balance of probabilities.

¹ Correspondence to complainant dated 22 September 2021

11. In order to determine this matter, the Commissioner asked a series of questions of the public authority regarding whether it had disclosed all the requested information it holds to the complainant. The salient questions and answers thereto are replicated below.

- What searches have been carried out to check no information was held within the scope of the request and why would these searches have been likely to retrieve any relevant information?

The calendar entries for the specified dates have been searched on Outlook and reviewed for the Planning Enforcement Officers. Screenshots are attached of what was recorded for the dates requested. All Planning Enforcement site visits are not recorded as the screenshots testify. Due to the nature of Enforcement, visits are mainly unannounced.

- Please describe thoroughly any searches of relevant paper/electronic records and include details of any staff consultations.

Please see above along with consultations with the Planning Enforcement team.

- If searches included electronic data, which search terms were used and please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.

Yes, the search did include the Planning Enforcement teams own personal computers including laptops.

- If no or inadequate searches were done at the time, please rectify this now and let me know what you have done.

N/A

- If the information were held, would it be held as manual or electronic records?

Electronic

- Was any recorded information ever held relevant to the scope of the complainant's request but deleted/destroyed

No

- If recorded information was held but is no longer held, when did Harrow Council cease to retain this information?

N/A

- Does Harrow Council have a record of the document's destruction?

N/A

- What does Harrow Council formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the PA describe the way in which it has handled comparable records of a similar age?

No records have been deleted but privacy notice attached

gdpr-privacy-notice-council-wide-updated-16th-december-2019.pdf
(harrow.gov.uk)

- If the information is electronic data which has been deleted, might copies have been made and held in other locations?

N/A

- Is there a business purpose for which the requested information should be held? If so, what is this purpose?

No

- Are there any statutory requirements upon Harrow Council to retain the requested information?

No

12. Having regard to the above, the Commissioner is satisfied the searches undertaken were sufficient to identify whether the requested information was held by the public authority. Additionally, the Commissioner has also viewed the diary entries of the relevant staff of the public authority and notes the absence of the information requested.
13. In his complaint to the Commissioner, the complainant states that similar requests (but with a different date range) did produce information confirming site visits. Hence, his scepticism of the public authority's assertion that no information was held regarding this request. The Commissioner takes this as evidence, that if the public authority held the requested information, it would have confirmed the same (as it has done for similar requests) with the complainant. The Commissioner also notes the complainant does not maintain that he has knowledge, or produce any evidence, of site visits in the period specified in his request.
14. The Commissioner for the reasons explained above is satisfied, on the balance of probabilities, that the public authority does not hold the requested information.

Right of appeal

15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

16. 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.
17. 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

Gerrard Tracey
Principal Adviser FOI
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF