

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

**Date:** 21 May 2024

**Public Authority:** London Borough of Islington  
**Address:** Islington Town Hall  
Upper Street  
London N1 2UD

**Decision (including any steps ordered)**

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1. The complainant made a request for the Islington (Prescribed Routes) (No. 5) Traffic Order 2023. The London Borough of Islington (the Council) provided a copy of the order with the signature redacted. It relied on section 40(2) of FOIA to withhold the signature.
2. The Commissioner's decision is that the Council should have dealt with the request under the EIR. However, having done so, it would have been entitled to rely on Regulation 13 of the EIR to withhold the information. The public authority breached regulation 14 of the EIR as it failed to deal with the request under the EIR.
3. The Commissioner does not require further steps.

**Request and response**

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4. On 9 November 2023, the complainant wrote to the Council and requested information in the following terms:

"I hereby request a copy of The Islington (Prescribed Routes) (No. 5) Traffic Order 2023. Please could this be provided in PDF format, with searchable / selectable text, and inclusive of all schedules."

5. The Council responded on 22 November 2023 providing the requested information, whilst redacting the signature.
6. The Council conducted an internal review on 6 December 2023 maintaining its original position and stating the signature was redacted under section 40(2) of FOIA.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 6 December 2023 to complain about the way his request for information had been handled.
8. The Commissioner considers the scope of this case to be to determine if the Council was entitled to redact the signature under section 40(2) of the FOIA.

### **Reasons for decision**

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#### **Is the requested information environmental?**

9. Regulation 2(1) of the EIR defines environmental information as being information on:
  - a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
  - b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
  - c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;

10. The Commissioner refers to a previous decision notice issued on 12 May 2023, IC-228374-W5Z<sup>1</sup>, which also concerned a request for a copy of a traffic management order made to Transport for London (TfL). In this case, TfL provided copies of two traffic management orders but withheld the signatures under section 40(2) of FOIA.
11. It was determined in decision notice IC-228374-W5Z that the request for information should have been handled under the EIR as the Commissioner considers that traffic management orders are a measure affecting the elements of the environment.
12. The Commissioner notes that not every traffic management order is made for the predominant purpose of affecting the elements of the environment. Depending on the precise terms of an order, the environmental impact may be large or small. However, taken as a whole, traffic management orders are issued for the purpose of improving the management of traffic (bearing in mind that this could be vehicular, pedestrian or cycle traffic) allowing it to flow more smoothly, more safely, or both.
13. The Commissioner also notes that good management of traffic should reduce emissions – either because vehicles spend more time moving or because it promotes the use of less-polluting forms of transport. Therefore measures to improve the management of traffic are likely to have an environmental impact – even if this was not the purpose (or, at least, not the predominant purpose) of the measures.
14. As this request is for a traffic management order concerning prescribed routes, this would improve the management of traffic and is likely to have an environmental impact, the Commissioner therefore considers that, as it forms part of broader measures to improve traffic flow, it is environmental information.

### **Regulation 13 – third party personal data**

15. Regulation 13 of the EIR allows a public authority to withhold any information, which is the personal data of a person other than the requester, where disclosure to the world at large would violate any of the data protection principles.
16. There is no material difference between the application of regulation 13 of the EIR and section 40(2) of FOIA. Therefore, even if the

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<sup>1</sup> [ic-228374-w5z4.pdf \(ico.org.uk\)](https://www.ico.org.uk/228374-w5z4.pdf)

Commissioner were to consider the matter under FOIA, the test to be applied would be identical.

17. The withheld information comprises of a signature on the traffic management order document.
18. In the Commissioner's decision IC-228374-W5Z4, he accepted that signatures in a traffic management order are personal data and that disclosure is not necessary as there is no lawful basis on which the personal data could be disclosed and disclosure would be unlawful.
19. In agreement with the decision notice issued by the Commissioner in IC-228374-W5Z4, the unlawful processing of personal data violates the first data protection principle and, as such, the Council was entitled to rely on regulation 13 of the EIR to withhold the signature in this specific traffic management order.
20. For the avoidance of doubt, the Commissioner would have accepted that section 40(2) of FOIA applied to this information, for the exact same reasons, had the information not been environmental.

## **Right of appeal**

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21. 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](mailto:grc@justice.gov.uk)

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

22. 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.
23. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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