

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

**Decision notice**

**Date:** 29 January 2024

**Public Authority:** London Borough of Southwark  
**Address:** PO Box 64529  
London  
SE1P 5LX

**Decision (including any steps ordered)**

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1. The complainant has requested information from the London Borough of Southwark Council ("the Council"), in relation to the 2018 Movement Plan. The Council advised that it does not hold the requested information.
2. The Commissioner's decision is that the requested information is environmental information within the definition at regulation 2(1)(c) of the EIR. The request therefore should have been handled under the EIR. However, he still finds that, on the balance of probabilities, the Council does not hold the requested information.
3. The Commissioner does not require any steps as a result of this Decision Notice.

**Request and response**

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4. On 21 July 2023, the complainant wrote to the Council and requested information in the following terms:

"The 2018 Movement Plan "Consultation Version" mentioned "introduce[ing] more Controlled Parking Zones" on page 18. The 2019 Movement Plan is the first time a borough-wide CPZ is mentioned, the final version of which was presented to Cabinet in April 2019.

Please provide me with copies of the following:

- all miniatures, notes or emails between officers, between members and between officers and members,
- all legal guidance sought and given, and
- the minutes of meetings where decisions were made relating to the controlled parking zone policy change from a tool to relieve parking stress to a borough-wide implementation from the years leading up to 2019."

5. The Council responded on 24 August 2023. It provided the complainant with a link for the Cabinet meeting from when the Movement Plan was approved. The Council added that the link contained documents relating to the request.
6. Following an internal review the Council wrote to the complainant on 5 September 2023. It apologised as the original response had not adequately provided the requested information. It went on to advise that, after further investigation, it does not hold the requested information, as all the staff who worked on the decision to include the phrase 'borough-wide CPZ' in the 2019 version of the document were at senior management level and are now no longer working for the Council.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 23 September 2023, to complain about the way their request for information had been handled.
8. The Commissioner considers that the scope of his investigation is to determine whether, on the balance of probabilities, the Council holds the requested information.
9. The Commissioner has also considered whether or not the information is environmental. The information request relates to Car Parking Zones (CPZ) and, as such, it is likely to be environmental information relevant to regulation 2(1)(c), (d), and (e) of the EIR. For procedural reasons, he has therefore assessed this case under the EIR.

## Reasons for decision

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### Reg 12(4)(a) – information not held

10. Regulation 12(4)(a) of the EIR states that a public authority may refuse to disclose information “to the extent that it does not hold that information when an applicant’s request is received”.
11. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.

### Complainant’s position

12. The complainant has explained that they asked for any information concerning the 2018/2019 policy change on how it implements the CPZ. They advised that before 2019, CPZs were used where residents had difficulty parking and, after 2019, they were adopted as a borough-wide policy.
13. The complainant advised that the Council informed them that it holds no information about the change, yet in 2019 a specific Councillor blogged against the policy he now directs from his position as Cabinet Member for Climate Emergency, Streets and Clean Air.
14. The complainant considers that it stands to reason that some communication occurred internally that moved the Councillor from opposition to supporter, to ‘in charge of’. They also advised that they do not believe there has been a diligent and thorough search for the requested information.

### Council’s position

15. The Council has explained that it has carried out searches of the relevant officers in the Transport Policy team for matters relating to the Movement Plan 2019, which was a project undertaken during 2018-19, by a team that disbanded in 2022.
16. The Council advised that it has carried out an extensive check of email records, calendar records and shared drives for the remaining staff who were working on that project. It also explained that other staff involved have since left the Council.

17. The Council explained that the searches have been conducted using search terms such as 'Movement' and 'Transport' but have not located any results.
18. The Council advised that there may have been calendar records for the period of time when the group sessions were held but these are no longer available due to the Council's rollout of laptops during the pandemic. It added that there have also been upgrades on the IT system it uses along with appropriate IT deletion policies.
19. The Council explained to the Commissioner that any information held would mostly have been electronic, however, it has some recollection of some unstructured records such as 'post-it' notes used in group sessions.
20. The Council also explained to the Commissioner that there is no business purpose for which the requested information should be held, as the Movement Plan was superseded by the Streets for People Strategy in 2023.

### **Commissioner's findings**

21. The Commissioner has considered the complainant's concerns and understands why they would consider the Council holds information in relation to their request. However, the EIR only looks at information that is held by a public authority. There is no requirement for further information to be created to respond to a request for information. A public authority cannot provide information that it does not hold
22. The Commissioner has also considered the Council's position and the searches carried out. He notes that the Council advised that some informal notes may have been taken at the time of the meetings. He finds it reasonable that, on the balance of probabilities, such notes would not still be held some five years later.
23. In the Commissioner's view and from the above explanations, he considers that, on the balance of probabilities, the Council does not hold the information that the complainant has requested.

Right of appeal

24. 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)

25. 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.
26. 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 .....**

**Michael Lea**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**