

## **Freedom of Information Act 2000 (FOIA)**

### **Decision notice**

**Date:** 7 March 2022

**Public Authority:** London Ambulance Service NHS Trust  
**Address:** 220 Waterloo Road  
London  
SE1 8SD

#### **Decision (including any steps ordered)**

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1. The complainant requested information relating to dealings with the London Borough of Enfield. The London Ambulance Service NHS Trust ("LAS") originally provided some information and said that some was not held. However, LAS subsequently identified some additional information which it provided to the complainant.
2. The Commissioner's decision is that LAS has, on the balance of probabilities, disclosed, to the complainant, all the information it holds within the scope of the request. However, as LAS failed to identify all the information it held or provide it to the complainant within 20 working days, it breached section 10 of FOIA.
3. The Commissioner does not require any further steps to be taken.

#### **Request and response**

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4. Between 5 March and 11 May 2021, the complainant submitted three requests to LAS with each fresh request building on the previous response. In the interests of brevity, the Commissioner has included the full text of these requests in a separate annex at the end of this notice.
5. In its initial response to each request LAS either provided information or said that it did not hold information.

6. However, when the complainant sought an internal review on the grounds that LAS had not provided all the information it held, LAS changed its position and, whilst it still maintained that it had provided all the information it held, it now appeared to refuse the request – citing section 14(1) and 14(2) of FOIA (vexatious request and repeated request respectively) as its reason for doing so.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 21 June 2021 to complain about the way his request for information had been handled. He did not consider that he had been provided with all the information that LAS held.
8. The Commissioner commenced his investigation on 2 December 2021 with a letter to the complainant outlining the scope of the complaint. He noted that it was not clear whether LAS' position was that it did not need to comply with the request as it considered that the request was vexatious or that it had already complied with the request because it had provided the necessary information. In the interests of expediency, the Commissioner noted that he intended to put both sets of questions to LAS so that it could either set out why it considered the request was vexatious or why it was satisfied that it held no further information within the scope of the request – rather than asking it to clarify its position first and then ask the appropriate questions.
9. In the event that LAS decided that it did not wish to rely on section 14 of FOIA, the Commissioner noted that he had identified several pieces of information which LAS had indicated that it held, but had not provided and which would fall within the scope of the request. The Commissioner invited the complainant to identify any further information that he considered that LAS should hold but had failed to provide – whilst noting that he (the Commissioner) could only reach a decision on the information LAS did, as a matter of fact, hold and not what the complainant felt it ought to hold.
10. The complainant responded to this correspondence but refused to engage with the Commissioner's investigation.
11. On 31 January 2022, LAS issued a fresh response to the complainant. It no longer relied on section 14(1) or 14(2) of FOIA. It identified four documents that it had not previously provided and supplied some further information on the remaining elements.

12. Several exchanges of correspondence between the complainant and the Commissioner followed. These are considered in more detail below, but the outcome was that the complainant did not give a clear indication that he was content to withdraw his complaint. In the circumstances, the Commissioner considers that the responsible course of action, as a regulator, is to issue a decision notice that the complainant can appeal if he wishes to do so.
13. The Commissioner considers that the scope of his investigation is to determine whether LAS has communicated, to the complainant, all the information it holds within the scope of the request.

### **Reasons for decision**

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14. 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.”
15. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant’s evidence and arguments. He will also consider the actions taken by the authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. Finally, he will consider any reason why it is inherently likely or unlikely that information is not held.
  16. For clarity, the Commissioner is not expected to prove categorically whether the information is held, he is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.

### **The complainant’s position**

17. After LAS issued its fresh response, the Commissioner wrote to the complainant to ask him whether he was now satisfied that the request had been complied with or, if not, to explain why he (the complainant) believed that further information would be held.

18. The complainant responded to this correspondence to say that he needed additional time to consider the response due to personal circumstances.
19. After studying the responses the complainant informed the Commissioner that it was apparent from LAS' responses that it did not engage with the London Borough of Enfield at a very local level. However, he said that he still needed more time to consider the response properly.
20. Unfortunately, shortly after this correspondence was received, the complainant had a further exchange of correspondence about a separate complaint and withdrew cooperation with the Commissioner's office. Whilst the Commissioner offered to keep engaging with him on this particular complaint, the complainant made clear that he had no confidence in the Commissioner's investigations in general.

### **LAS' position**

21. As part of the investigation, the Commissioner asked LAS to satisfy itself that it had carried out appropriate searches (including carrying out additional searches if deemed necessary) and to set out what these searches were.
22. Whilst LAS did not specify the searches it has carried out, it has issued a further response to the complainant and this latest response (LAS' third) contains information not previously identified.

### **The Commissioner's view**

23. In the Commissioner's view, LAS has, on the balance of probabilities, communicated all the information that it holds in recorded form.
24. Whilst it would have been preferable if LAS had set out details of the searches it has carried out, the Commissioner accepts that it has provided a comprehensive, detailed response to the complainant containing information that was not previously supplied.
25. Furthermore, the Commissioner notes that several documents that he originally identified to LAS as falling within the scope of the request have now been provided. This indicates that LAS has carried out further searches and that these searches have resulted in additional relevant information being identified.
26. Several parts of the request appear predicated on LAS having had very specific local engagement with the London Borough of Enfield. As LAS has explained (and as the complainant appeared to accept in his

correspondence) it engages with the various boroughs of London at a relatively high level. Whether, as the complainant appears to suggest, LAS could make better use of its local knowledge, is a matter for LAS. It does not indicate that LAS holds further information – indeed it explains why LAS would be unlikely to hold any further information.

27. In addition, several parts of the request appear to be seeking an opinion from LAS. Such requests are not ones which are valid under the legislation as they do not describe recorded information that a public authority may hold.
28. The Commissioner has studied LAS' response closely and has been unable to identify any further information that LAS is likely to hold that would fall within the scope of the request. As the complainant has not indicated what further information he believes LAS would hold, the Commissioner is left to conclude that LAS has, on the balance of probabilities, now disclosed all the information it holds.

### **Procedural matters**

29. Section 10 of FOIA states that a public authority must comply with its duty under section 1(1) of FOIA and communicate all non-exempt information "promptly and in any event not later than the twentieth working day following the date of receipt."
30. As LAS did not identify all the information it held in recorded form, or provide this to the complainant within 20 working days, the Commissioner finds that LAS breached section 10 of FOIA.

## Right of appeal

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31. 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)

32. 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.
33. 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 .....**

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

## Annex

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### The request chronology

34. On 5 March 2021 the complainant requested information of the following description:

"There is clear instruction from LAS to councils that 'emergency access routes' need to be 'clearly signed'.

"Where LTNs use ANPR and there are no such signs:

1. What is your protocol for ensuring councils do display these signs?
2. What is your stance on the 3 ANPR closures for LAS access that do not currently have these clear signs?
3. How would you expect the lack of signage to affect the response times - as first responders are unable to identify the clear access routes when no such signage exists (while trying to dodge bollards)."

35. On 25 March 2021, LAS responded and provided some information.

36. The complainant responded to LAS the same day with a further five questions:

"As it appears my request has not effectively been answered I therefore submit this further FOI.

"I have attached a letter from the LAS clearly stating that clear signage must be available to emergency services.

1. You state below that the orders are clear (despite a lack of signage stating 'emergency access only' as the attached letter states) and that because of the traffic order this does not affect emergency services. Can you therefore please advise how possible it is for emergency responders to locate and examine traffic manager orders while responding to an emergency?
2. Why have you not addressed the clear requirement for 'emergency access only' signs which is clearly from LAS and mentioned in my request to you but not answered. In light of the attached, what is

your stance on the lack of this signage which does not make it evident that emergency vehicles are all allowed access?

3. You state this would have been considered during the consultation with you at LAS. Can you please confirm the total number of first responders there are in total? Followed by the total number of first responders who were part of the consultation?
  4. A 'no motor vehicle' sign means no motor vehicle. This specific sign alone without any further accompanying sign would mean emergency services are not allowed to proceed. This is the case for 3 ANPR locations in fox lane. What visible signs are there that make it evident to emergency vehicles that they are permitted? (This does not require any response that mentions the traffic order as during an emergency response, it is unjust and inequitable to expect a responder to locate and analyse a traffic management order.) Where are the signs that were clearly required of authorities as stated by LAS? Where is the clear signage that enables emergency services to identify the through route?
  5. What steps are the LAS taking to ensure the requirement is met to clearly make it evident that emergency services are permitted?"
37. When LAS responded on 11 May 2021 and provided some further information, the complainant submitted a further 15 questions:
- "1: you seem to believe that all 'no motor vehicle' signs relate to planters (with a gap in the middle) and have not considered the 8 remaining locations where no such access is possible due to lockable bollards. The guidance of the attached from the LAS clearly relates to being able to identify the clear access route for first responders. No such signs exists. Therefore, please advise what information you have discussed with your response teams about why access routes to use and how you have identified the lockable bollards and planters and ensures every team member has this information?
  - 2: Please also advise why so many delays continue to occur for emergency services if as you state crew staff (as a whole) have been briefed but are failing to respond unimpeded which conflicts the Datix reports and reports made available to the public?
  - 3: If the brief has occurred as you state, why are there still delays despite such briefing?



- 4: what action are you taking where the briefing has evidently failed?
5. please plain further further your [sic] understanding and information you act upon based upon both 'no entry' which means No entry for vehicular traffic and 'no motor vehicles permitted' signs which mean No motor vehicles - which both mean no vehicle can proceed without any other further indication of the sign and whom is exempt.
6. Please therefore further state where it is clearly visible that emergency services can proceed based on the signs that are there (and not from traffic orders which are not to hand during an emergency). If they are to hand during an emergency, please share what is to hand to first response teams and how they are to identify this and where this information was during the delays already reported and documented?
7. you therefore confirm that no first response teams have been engaged with any consultation. Can you please advise how trust representatives can give any credible input about the granular issues that a first responder would and does experience with these barriers to through route when the first responders themselves have not been consulted or formed part of any consultation?
8. Furthermore, how have you assessed that duty of care to staff and the public is fully considered when the flow of communication about issues is only regarded at senior level and not at granular response team level as part of the consultation or any of the design phase?
9. Please also state who were the names individuals acting for the LAS and when those LAS representatives had first been consulted:
  - A) visited the sites in Enfield where each block was due to be installed before the commencement on 7th Sept 2020
  - B) all site visits that occurred by the LAS representatives since 7th September and again after 19th Nov 2020
  - C) the findings from all visits

10. It is also stated that the LAS want ANPR - can you please supply this clear request that was issued to Enfield Council which has been declared by their key decision maker?
  11. If you did request the ANPR, what are the assessments made, correspondence and requests made by the LAS about the remaining 8 lockable bollards which are not ANPR?
  - 12: There are 8 sets of these signs at lockable bollard closures. How have you assessed that crews in Enfield 'are freely allowed to drive through this type of closure without requirement for additional signage'?
  13. Please advise on your assessments that the teams at these 8 modal filters with no motor vehicle signs can proceed 'freely'?
  14. Your response is london in general, please can you be specific to Enfield LTNs: Bowes and Fox Lane only?
  15. Please can you state all 'regularly' held meetings with Enfield Local authorities along with who attended and the substance of the meetings?
  16. Where you state schemes are continually monitored, please can you advise how? What monitoring has occurred so far to date and what key performance indicators have been identified before the 'trial' of the LTN began?
  17. What input and correspondence did the LAS have on the modification fo the[sic] traffic orders on 19th November 2020?"
38. LAS responded to this latest request on 11 June 2021. It provided some information and stated that it had provided all the information it held in recorded form.