

Freedom of Information Act 2000 (Section 50)
Environmental Information Regulations 2004

Decision Notice

Date: 15 March 2011

Public Authority: Shropshire Council
Address: Shirehall
Abbey Foregate
Shrewsbury
Shropshire
SY2 6ND

Summary

The complainant submitted a request to Shropshire Council (the Council) for information about planning, development and tree preservation orders at a property and notes of site visits and advice given. An initial response to the request was provided within twenty working days, however further information falling under the scope of the request was provided outside the time for compliance. Consequently the Commissioner finds that the public authority breached regulation 5(2) of the Environmental Information Regulations.

The Commissioner's Role

1. The Environmental Information Regulations (EIR) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into the EIR.

The Request

2. On 12 August 2009 the complainant made the following request for information:

Could you please disclose the 'indented works' for a license to work on the highway documents referred to in the letters of [named employee]. Please could you also disclose documents/notes/e-mails referring to the site visit to [a property] in the e-mail dated 02/03/09 between [two named employees].

Please could you disclose any further correspondence/documents/letters/e-mails/notes regarding planning/development/TPO works at [a property] held by the council obtained since your first disclosure.

3. The Council responded on 9 September 2009 disclosing some information and issuing a partial refusal notice.
4. Following an exchange of further correspondence, on 13 November 2009 the Council then provided further information in response to the request.

The Investigation

Scope of the case

5. On 16 February 2010 the complainant contacted the Commissioner to complain that although the Council provided a response to his request within 20 working days, further information caught in the scope of his request was provided outside 20 working days.

Chronology

6. The Commissioner noted the delay and as the information had been provided, no further investigation was warranted.

Analysis

Substantive Procedural Matters

7. The Commissioner has considered whether the information requested by the complainant is environmental information as defined by the EIR.
8. The Commissioner considers that the information requested falls within regulation 2(1)(c): "measures (including administrative measure), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect these elements". Information about a plan or a measure or an activity that affects or is likely to affect the elements of the

environment is environmental information. The Commissioner therefore considers information on the planning, development and tree preservation orders to be environmental information.

Procedural Requirements

Regulation 5: duty to make information available on request

9. Regulation 5(1) states that a public authority that holds environmental information shall make it available on request. Regulation 5(2) states that this information shall be made available as soon as possible and no later than 20 working days after the date of receipt of request.
10. The complainant submitted his request for information on 12 August 2009. The Council provided an initial response 9 September 2009. However, further information caught by the scope of the complainant's request was not provided until 13 November 2009. As some of the information was not provided within 20 working days, the Commissioner finds that the Council breached regulation 5(2).

The Decision

11. The Commissioner's decision is that the Council has breached regulation 5(2) of the EIR in failing to comply with regulation 5(1) within twenty working days following receipt of the request.

Steps Required

12. The Commissioner requires no steps to be taken.

Right of Appeal

13. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

14. 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.
15. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 15th day of March 2011

Signed

**Andrew White
Group Manager – Complaints Resolution
Information Commissioner’s Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Regulation 5 - Duty to make available environmental information on

Regulation 5(1)

Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

Regulation 5(2)

Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.