

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 28 February 2013

Public Authority: Havant Borough Council
Address: Civic Offices
Havant
PO9 2AX

Decision (including any steps ordered)

1. The complainant has requested a summary of information contained in Havant Borough Council's (the "council") Building Act register. The council initially stated that the information was not held and subsequently refused the request because it considered it to be manifestly unreasonable. During the Commissioner's investigation the council confirmed that it did hold the requested information and provided this to the complainant.
2. The Commissioner's decision is that, in failing to provide the requested information within 20 working days, the council has breached regulation 5(2) of the EIR.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 12 July 2011, the complainant wrote to the council and requested information in the following terms:

"I require a summary of the environmental information that you hold in your Building Act register. The summary to include date received and a description of the information. The format I requires is PDF."
5. The council responded on 19 July 2011. It stated that it did not hold a Building Act register and confirmed that it held a substantial volume of information relating to the Building Act. It stated that to provide a summary of all information held would be considered to be manifestly

unreasonable and asked the complainant to clarify exactly what specific information they wished to access.

6. Following an internal review the council wrote to the complainant on 3 August 2011. It stated that it was refusing the request on the grounds that it was manifestly unreasonable under regulation 12(4)(b) of the EIR.

Scope of the case

7. On 22 July 2011 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
8. During the course of the Commissioner's investigation the council withdrew its reliance on the exception for manifestly unreasonable and provided the complainant with the requested information. The Commissioner's investigation is confined to the delay involved in the provision of the requested information.

Reasons for decision

Regulation 5 – duty to provide environmental information on request

9. Under regulation 5(2) of the EIR, a public authority that holds environmental information shall make it available on request "*....as soon as possible and no later than 20 working days after the date of receipt of the request.*"
10. The council stated that they did not hold a single file that was called a 'Building Act register'. However, after various exchanges with the Commissioner and the complainant, it became clear that there were documents in the council's possession that fell into the categorisation that the complainant was of the view that should have been covered by such a register. Once identified, they were provided to the complainant.
11. The complainant submitted their request on 12 July 2011 and the council provided the requested information in January 2012. The Commissioner has concluded that, in failing to provide the information within 20 working days the council breached regulation 5(2) of the EIR.

Right of appeal

12. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

13. 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.
14. 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

Andrew White
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