

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 3 November 2015

Public Authority: London Borough of Hounslow
Address: Civic Centre
Lampton Road
Hounslow
TW3 4DN

Decision (including any steps ordered)

1. The complainant has requested from London Borough of Hounslow ("the Council") a copy of a Building Regulations application in respect of a specific property.
2. The Commissioner's decision is that the Council has failed to either provide the requested information or issue a valid refusal notice within the 20 working day statutory time limit as set out in regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - To issue a response under the EIR.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act 2000 and may be dealt with as a contempt of court.

Request and response

5. On 15 April 2015, the complainant wrote to the Council reiterating that he had made his original request in November 2013 and that the Council had not responded.

6. The Council responded on 15 April 2015. It stated that the request had been referred to Building Control at the time it was made and that the Council would not be responding to any further correspondence regarding that request as 18 months had passed since it was made.
7. Following the Commissioner's intervention, the Council agreed to treat the complainant's correspondence of 15 April 2015 as a new request.

Scope of the case

8. The complainant contacted the Commissioner on 5 May 2015 to complain about the way his request for information had been handled. The Commissioner explained that, since the complainant's correspondence of 15 April 2015 was being considered as a new request, the Council had until 14 May 2015 to respond.
9. The Council has, to date, despite correspondence from the Commissioner, neither provided the requested information nor issued a valid refusal notice, therefore the Commissioner has considered the Council's handling of the complainant's request.

Appropriate legislation

10. The Commissioner must first determine whether the request should be considered under the Freedom of Information Act (FOIA) or the Environmental Information Regulations (EIR).
11. Regulation 2 provides the definition of environmental information for the purposes of the Regulations. It defines environmental information as:

"any information in written, visual, aural, electronic or any other material form 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) and (b) as well as measures or activities designed to protect those elements;

12. The request relates to a Building Regulations application regarding a specific property from agricultural use to a dwelling house. The Commissioner therefore considers that it falls squarely within regulation 2(1)(c) in that it relates to information about measures which impact on the elements of the environment and the landscape. Accordingly the request falls to be dealt with under the EIR rather than the FOIA.

Reasons for decision

13. Regulation 5 of the EIR requires a public authority which holds environmental information to provide it within 20 working days of receipt of a request or issue a valid refusal notice.
14. The Council did acknowledge the complainant's request, however it did not confirm whether it held the requested information, and it failed, within the 20 working day time limit, to either disclose the requested information or issue a valid refusal notice.
15. Therefore, the Commissioner's decision is that the Council has breached regulation 5(1) and 5(2) of the EIR.

Right of appeal

16. 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: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF