

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

Decision notice

Date: 22 July 2015

Public Authority: Cheshire West and Chester Council
Address: HQ Building
Nicholas Street
Chester
CH1 2NP

Decision (including any steps ordered)

1. The complainant requested information relating to grant funding for Mill View Primary School's 'Forest School', an outdoor learning environment. The council responded to the request but it took longer than 20 working days to do so. The Commissioner's decision is that the request should have been considered under the terms of the Environmental Information Regulations 2004 ("the EIR"). He considers that the council breached regulation 5(2) of the EIR for failing to respond within 20 working days. There are no steps to take.

Request and response

2. On 20 February 2015 the complainant requested information from the council in the following terms:

"The Governing Body of Mill View Primary school has written to me to confirm the findings of your investigation into the school's receipt of grant funding, from the charity UnLtd, for the development of an outdoor teaching area.

The school advises, that in your report to [name], you confirmed that:

'The grant was applied for as set out by the Funding Body and their criteria was satisfied. The grant was paid in three instalments and on

each occasion the school had to show that the funding had been spent appropriately in order to receive the next payment'.

Please can you confirm that, as per the above statement, your investigation established that the school was dealing directly with, and had received payments directly from, the grant provider UnLtd?

I would also like to see a copy of your report."

3. The council responded to the request on 23 April 2015. It apologised for the delay. It said that it did not have a report but it identified a relevant email, which it provided.
4. The complainant requested an internal review on 23 April 2015. He expressed dissatisfaction with the lack of explanation for the delay.
5. The council completed an internal review on 9 June 2015.

Scope of the case

6. The complainant initially contacted the Commissioner on 30 April 2015 to complain about the delay. Following the council's internal review, the complainant complained again on 12 June 2015. The complainant clarified that he was not complaining about the delay in supplying the internal review but that the internal review did not provide an adequate explanation for the delay in responding to the request initially. For clarity, the latter issue does not relate to a breach under the EIR so it cannot be addressed formally in this decision notice. Some comments are included in the Other Matters section.

Reasons for decision

Environmental Information Regulations 2004

7. Under regulation 2(1)(c) of the EIR, any information relating to activities affecting or likely to affect the elements or factors of the environment is "environmental information" for the purposes of the EIR. Requests falling within the scope of the EIR cannot be considered under the Freedom of Information Act 2000 ("the FOIA").
8. In this case, the council dealt with the request under the FOIA. However, this request concerns information relating to a grant for the outdoor learning environment at Mill View Primary School known as "Forest School". The council explained to the Commissioner that the

Forest School project involved the erection of temporary structures. In view of this explanation and the nature of the Forest School itself, the Commissioner considers that it is likely that this information relates to activities affecting or likely to affect the land, bringing it under the terms of the EIR.

Regulation 5(2)

9. The council took longer than 20 working days to respond to the request on this occasion. That was a breach of regulation 5(2) of the EIR.

Other matters

10. In this case, the complainant complained directly to the council about the time it took to respond initially. The council subsequently completed an internal review on this issue. It accepted that there was no justification for the delay. It said that a contributory factor was workload within the department concerned. The complainant received a follow up letter of apology from the Head of Governance. The council said that it would review its processes for handling information requests. The letter from the Head of Governance also outlined a number of other improvements the council expected to make to help it to deal with requests more efficiently in the future.
11. The complainant complained to the Commissioner that the council's explanation for the delay was without merit and said that the delay was possibly deliberate. He has pointed to evidence that shows that the council was in possession of the information provided almost immediately and it should have provided its response much sooner. That appears to be the case however, the Commissioner cannot add to what the council have already said and done in relation to this matter. The council has acknowledged that the delay cannot be justified, apologised and outlined steps for improvement. There is insufficient evidence to suggest that the delay was deliberate.

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: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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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SK9 5AF