

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 11 October 2016

**Public Authority:** Newcastle City Council  
**Address:** Civic Centre  
Newcastle Upon Tyne  
NE99 2BN

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

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1. The complainant has requested information in relation to a building and its grounds. Newcastle City Council (the council) refused the request under regulation 12(4)(c) of the EIR as it considered it to be formulated in too general a manner.
2. The Commissioner's decision is that the council has incorrectly applied regulation 12(4)(c) of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Either issue a fresh response to the complainant providing the requested information or issue a valid refusal notice without relying on regulation 12(4)(c) of the EIR.
4. The public authority 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 Act and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 18 March 2016, the complainant wrote to the council and requested the following information:

*"Details of copies of any emails, documents, letters and phone conversations appertaining discussions and considerations on the future of Woolsington Hall and grounds received by or sent by the Council since the fire on December 29<sup>th</sup> 2015 to date."*

6. The council responded on the 11 April 2016 refusing the request under regulation 12(4)(c) of the EIR as it considered the request was formulated in too general a manner and asked her to specify which departments in the council she was referring to.
7. On 12 April 2016, the complainant told the council that the request was aimed at gaining information on future plans, so will encompass the planning department and any others involved. She also advised the council that she was not satisfied with it taking almost the full 20 working days to refuse the request.
8. The council carried out an internal review on the 27 April 2016 and maintained that it was correct to rely on regulation 12(4)(c) of the EIR. It also acknowledged that it should have sought clarification sooner than it did and lastly stated that it may be worth considering discussing the issues with the planning department directly rather than going through the FOI process stating that the FOI is limited in what it can provide.

### **Scope of the case**

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9. The complainant contacted the Commissioner on 25 April 2016 as she was not satisfied with the council's refusal of her request.
10. The Commissioner considers the scope of the case is to determine whether or not the council was correct to refuse the request under regulation 12(4)(c) of the EIR.

### **Reasons for decision**

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#### **Regulation 12(4)(c) of the EIR – Formulated in too general a manner**

11. Regulation 12(4)(c) of the EIR states that:

*"(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that-*

*(c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9."*

12. The Commissioner's view is that this exception only relates to requests for information that are too vague, unclear or non-specific. He distinguishes this from requests that might be considered 'too big' or relating to extensive amounts of information, which may be covered by regulation 12(4)(b) of the EIR – manifestly unreasonable.
13. In this particular case, the council asked the complainant to clarify which department/s in the council she was referring to. The complainant did respond referring to the planning department and any others involved.
14. The Commissioner has asked the council to explain to her why it considers the request is formulated in too general a manner.
15. The council has told the Commissioner that it considers the complainant has not clarified the department but simply reworded her original statement relating to the whole council.
16. The Commissioner sees that the complainant has identified the planning department to the council and understands that the statement, "*any others involved*", may widen the searches required in order for the council to be able to respond to this request. But it is for the council to identify who else may have been involved, the Commissioner would not expect the complainant to know exactly who in the council would hold the information requested, although it appears she has given the council a starting point with the planning department.
17. In fact, the council has told the Commissioner that it has advised the complainant that she would be best dealing directly with the officers involved in the specific project to determine the information they are actually after, and has also told the Commissioner that the concerns raised do not appear to sit within the province of the EIR or Freedom of Information Act 2000 (the FOIA).
18. The Commissioner has concerns on this approach taken by the council, as the request is clearly a request for information and would certainly sit within one of the two legislations, in this case the EIR. Also, it is not for the complainant to have to go to the planning department directly in order to seek this information, it is for the council to approach the department to identify what information is held within the scope of the request.
19. Lastly, the council has mentioned in its response to the Commissioner that there are "*officers involved in this specific project*" and so considers that the council most certainly has a very plausible starting point for locating any information held and could speak with those officers to identify who else could potentially hold relevant information.

20. On review of the council's responses to both the Commissioner and the complainant and from reviewing what was requested, the Commissioner considers that the information being requested is very clear as she has identified the type of information required on the future of Woolsington Hall and grounds and provided a clear timeframe of approximately 3 months for the information being sought.
21. The complainant has also identified the planning department as the department that would hold relevant information and the council has also directed her to them directly. The Commissioner does not accept the council's view that this request is too vague, she actually considers it to be very clear for the council to understand and identify whether the requested information is held or not and considers the complainant could offer little if anything else to clarify her request further.
22. Even if the council had to search every department for the information, what is being sought would, in the Commissioner's view, be searchable and is slightly bemused that the council thinks otherwise.
23. The Commissioner therefore finds regulation 12(4)(c) is not engaged to this request and the council should now carry out the steps ordered in paragraph 3 above.

## Right of appeal

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24. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**