

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

**Decision notice**

**Date:** 23 November 2017

**Public Authority:** Royal Borough of Kensington and Chelsea  
**Address:** Town Hall  
Hornton Street  
London  
W8 7 NX

**Decision (including any steps ordered)**

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1. The complainant has requested a copy of the structural engineers report regarding Grenfell Tower.
2. The Commissioner's decision is that the Royal Borough of Kensington and Chelsea (RBKC) has breached regulation 5(2) of the EIR by failing to respond to this request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the complainant under the terms of regulation 5(1) of the EIR. This requires the public authority to either disclose the requested information or issue a refusal notice under the terms 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 14 July 2017, the complainant wrote to RBKC and requested information in the following terms:

*"Please provide a copy of the Structural Engineers Report (or the information contained therein) on Grenfell Tower in its current fire damaged condition."*

6. On 20 August 2017, the complainant contacted RBKC to complain that he had not received a response to his request for information and requested an internal review of the handling of his request.
7. On 6 September 2017, RBKC acknowledged the request for internal review and confirmed that it considered the appropriate legislation was the EIR. RBKC confirmed that it would issue the internal review *"at the latest by 16 October 2017"*. On 8 September 2017, RBKC explained that it was required to consult with the Metropolitan Police Service and London Fire Brigade regarding disclosure of the requested information.
8. On 8 September 2017, the complainant contacted the Commissioner to complain that he had not received a substantive response to his request for information.
9. On 20 October 2017, the Commissioner wrote to RBKC. She asked RBKC to issue a substantive response to the request within 10 working days.
10. RBKC had not responded by the expiration of this deadline so on 7 November 2017, the Commissioner contacted RBKC again and asked for an update further to her previous communication.
11. To date, neither the complainant nor the Commissioner has received a substantive response from RBKC to the request submitted by the complainant on 14 July 2017. The Commissioner has also received no contact from RBKC regarding this case.

### **Scope of the case**

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12. The Commissioner has considered whether this request should be considered under the EIR rather than the FOIA.
13. She has also considered whether RBKC is in breach of the statutory timeframe set out under the applicable legislation.

### **Reasons for decision**

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### **Applicable legislation**

14. As the request is for a structural engineer's report, the Commissioner considers that it is more probable than not that the report would include

views on the structural integrity of Grenfell Tower following the fire and, consequently, the likely impact on the state of the elements and factors. She therefore considers that the request is likely to fall within the definition of environmental information at regulation 2(1)(c)<sup>1</sup>.

### **Regulation 5: Duty to make environmental information available on request**

15. Regulation 5(1) of the EIR states:

*"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"*

16. Regulation 5(2) of the EIR states:

*"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"*

17. The request was made on 14 July 2017; the twentieth working day following this was 12 August 2017.

18. As no response has been provided regarding this request, the Commissioner's decision is that RBKC has breached regulation 5(2) of the EIR.

### **Other matters**

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19. The Commissioner acknowledges the difficulties RKBC are facing following the tragic events at Grenfell Tower. She asks the Council to engage with her officers and seek assistance, where required, from her office to aid its efforts in providing information to members of the public.

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<sup>1</sup> <http://www.legislation.gov.uk/ukxi/2004/3391/regulation/2/made>

## Right of appeal

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20. 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 123 4504

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)

21. 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.
22. 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 .....**

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**