

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 9 November 2022

Public Authority: London Borough of Ealing

Address: Perceval House
14/16 Uxbridge Road Ealing W5 2HL

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Ealing ("the Council") concerned with [name redacted] avenue and [name redacted] avenue. Following a penalty charge for a traffic offence, the requestor asked for information about the visibility of a parking notice on these roads, the cameras that captured the traffic offence and the road markings.
2. The Commissioner's decision is that the Council has failed to carry out a reconsideration (internal review) of a response it provided under the EIR within 40 working days. It has therefore breached regulation 11 of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Reconsider how it responded to the original request and inform the complainant of the outcome of that reconsideration in accordance with regulation 11 of 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 and may be dealt with as a contempt of court.

Request and response

5. On 20 January 2021, the complainant wrote to the Council and requested information in the following terms:

"Pursuant to the aforesaid Act, I request you to provide me with full and frank disclosure(s) by way of evidence as a matter of urgency, for me to consider my position as the act allows.

1. I request you to forward to me the evidence that there was a valid notice displayed as and when the road layout was altered/amended.

2. Please confirm that the notice was clearly displayed and was visible with evidence in support.

3. I request you to forward to me the CD of the alleged offence.

4. I request you to forward the application that was made to the Local Authority and or other Authorities to have the prohibition on the said road.

5. I request you to forward to me a copy of the said Application.

6. I request you to forward the copy of the Grant of the Application.

7. I request you to forward the copy of the Notice that was served in accordance with the law.

8. I request you to forward the copy of the Planning Application.

9. I request you to forward the Grant of the Application.

10. Please confirm the date of the service of the said cameras, which allegedly took pictures of my car, allegedly entering [name redacted] Avenue/[name redacted] avenue when prohibited.

11. Please provide the evidence in support.

12. Please provide the full name and address of the company who serviced the said camera(s).

13. Please provide the full name and address of the person who carried out the said service.

14. Please confirm the relationship of the person who serviced the said camera(s) with the said company who carried out the service on the said camera(s).

15. Please confirm if the said cameras are complaint with the act.

16. Please forward the evidence in support.

17. Please provide the copy of the Calibration Certificate with a Statement of Truth.

18. Please forward the full name and address of the person who prepared the CD and first obtained the evidence.
 19. Please forward the full name and address of the person who developed the said evidence.
 20. Please forward the full name and address of the company who developed the evidence.
 21. Please confirm the date when these road markings were painted.
 22. Please confirm the name of the company who painted these road markings.
 23. Please confirm if these road markings comply with the Act as allowed.
 24. Please supply the evidence in support of all requests without exceptions.”
6. The Council responded to the request on 30 March 2021.
 7. The complainant requested an internal review on 6 April 2021, but the Council had not completed its review at the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 11 November 2021 to complain about the way this request for information had been handled.
9. The Commissioner contacted the Council on 13 September 2022 to highlight the outstanding internal review and asked the Council to complete its reconsiderations within 10 working days.
10. Despite this intervention the Council has failed to respond to the complainant and has not responded to the Commissioner’s letter asking for confirmation that a review was ever provided.
11. The scope of the Commissioner’s investigation is to determine whether the Council has complied with regulation 11 of the EIR.
12. For the avoidance of doubt, the Commissioner has not yet considered and therefore takes no position on whether the Council was entitled to rely on the exceptions which it has done or whether the Council holds further information.

Reasons for decision

13. Regulation 11¹ of the EIR states that:

“(3) The public authority shall on receipt of the representations and free of charge—

(a) consider them and any supporting evidence produced by the applicant; and

(b) decide if it has complied with the requirement.

(4) A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.”

14. From the evidence presented to the Commissioner in this case it is clear that, in failing to carry out an internal review within 40 working days, the Council has breached regulation 11 of the EIR. The Commissioner considers the delay in this case to be extremely unsatisfactory and reminds the Council that it should provide prompt responses in future.

¹ <https://www.legislation.gov.uk/uksi/2004/3391/regulation/11>

Right of appeal

15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

16. 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.
17. 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

Michael Lea
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