

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

Decision notice

Date: 25 October 2022

Public Authority: Lancaster City Council
Address: Town Hall
Dalton Square
Lancaster
LA1 1PJ

Decision

1. The Commissioner's decision is that Lancaster City Council should have considered the request in this case under the EIR rather than FOIA.
2. The Commissioner requires Lancaster City Council to take the following step to ensure compliance with the legislation:
 - Issue the complainant with a fresh response to their request that complies with the EIR.
3. Lancaster City Council must take this step 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

4. The complainant made the following information request to Lancaster City Council ('the Council') on 2 December 2021:

"Please provide information outlining the issues discussed at the Lancaster City Council Meeting of the 25 August 2021 regarding the Collaboration Agreement. More specifically what issues were discussed during the time that the public was excluded. Could you please provide me with all agendas, papers, reports, minutes etc. regarding that time and which were presented to Councillors privately."

5. The Council's final position was that the requested information was exempt from disclosure under section 44(1) of FOIA, which concerns prohibitions on disclosure.

Reasons for decision

6. This reasoning covers why the requested information is environmental information that the Council should have considered under the EIR.
7. Regulation 2(1) of the EIR describes environmental information as being information 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..."

and

...(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)...as well as measures or activities designed to protect those elements..."
8. The requested information in this case is associated with a Collaboration Agreement between the Council and Lancashire County Council. The Agreement concerns infrastructure investment.
9. The Commissioner is therefore satisfied that this information falls within scope of the above two subsections of regulation 2(1) of the EIR and is environmental information. The Council should therefore have handled the request under the EIR and not FOIA.

Right of appeal

10. 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@justice.gov.uk

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

11. 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.
12. 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

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF