

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 24 June 2024

Public Authority: Bracknell Forest Borough Council
Address: Time Square
Market Street
Bracknell
Berkshire
RG12 1JD

Decision (including any steps ordered)

1. The complainant requested information relating to policies and procedures on the handling of roadworks. Bracknell Forest Borough Council (the council) provided some information and said that no further information was held.
2. The Commissioner is satisfied, on the balance of probabilities, that the council does not hold any further information relevant to the request.
3. The Commissioner does not require further steps.

Request and response

4. On 13 December 2023, the complainant wrote to the council and requested information in the following terms:

“Recent overlapping roadworks on 13th December 2023 have significantly disrupted the Little Sandhurst community. These works involved:

1. Closure of Church Road for Carriageway Patching.
2. Traffic control on Longdown Road with multi-way signals.

These actions have hindered residents' mobility and potentially delayed emergency services, posing safety risks. They are in addition to several issues over the last month that have caused major delays on the local road network. Most of which have been entirely preventable.

I request the following information under the Freedom of Information Act 2000:

1. Job title and department responsible for these roadwork decisions.
2. Any other roles within the council overseeing disruption prevention on the Highway Network.
3. Details of planning processes aimed at avoiding such disruptions.
4. Measures taken at planning and execution stages to manage these disruptions.
5. Future strategies to prevent similar occurrences.
6. Public statements issued regarding these disruptions and their rationale.
7. Decision-making process for any mitigation measures.
8. Correspondences with Little Sandhurst Parish Council, Sandhurst Town Council, and Crowthorne Town Council on these transport issues (copies requested).

Additionally, any context or further information about handling and preventing these transport disruptions would be valuable.”

5. The council responded on 23 January 2024, providing information falling within the scope of the request.
6. Following an internal review the council wrote to the complainant on 20 February 2024. It provided further explanations relating to the information held and confirmed that it held no further information falling within the scope of the request.

Scope of the case

7. The complainant contacted the Commissioner on 26 February 2024, complaining that the council had not responded within the statutory timescale and that they believe that the council holds further information falling within the scope of the request.
8. The following analysis covers whether the council responded within the statutory timescale and whether it holds further information falling within the scope of the request.

Reasons for decision

Is the requested information environmental?

9. The requested information is on processes and procedures relating to roadworks. As such, the Commissioner is satisfied that the information sought is environmental information under regulation 2(1)(c) of the EIR.
10. Although the council dealt with the request under the Freedom of Information Act 2000 (FOIA) this does not affect the scope of this case since no FOIA exemptions were applied to withhold any information.

Regulation 5 – duty to make environmental information available on request

11. Regulation 5(1) of the EIR requires a public authority that holds environmental information to make it available on request.
12. Where there is a dispute between a public authority and a complainant as to whether all requested information falling within the scope of a request has been provided, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide the matter based on the civil standard of on the balance of probabilities.
13. The complainant believes that the council has not disclosed all the recorded information it holds that is within the scope of their request. In particular, they have argued that the information provided lacked specificity and that documents were not provided
14. The council has stated that the request asked for information relating to its policies, procedures, and strategies for dealing with roadworks. This information falls under the term 'corporate documents'.

15. It has confirmed that the council's corporate documents are located on its intranet system or in the team's own departmental shared digital folders. It confirmed that no searches were required of these areas since key staff were aware that such information did not exist.
16. The council went on to explain that its activities in this area are dictated by legislation and statutory guidelines so it has not seen any need to replicate these in internal documents. In addition, the knowledge and experience of key staff, which is not documented, is used to make assessments in line with these statutory rules and guidelines.
17. It confirmed that: "The small group of key staff who deal with the management of roadworks were consulted and asked to provide any information they held relating to the specific questions. They also held discussions about the request to see what documents of relevance, if any, they could provide. These key staff confirmed that they did not hold corporate documents of this nature."
18. In relation to other parts of the request, the council confirmed that searches were carried out within relevant staff email accounts, laptops, electronic files and shared files but no additional information, above that disclosed to the complainant, was located.

The Commissioner's conclusion

19. The Commissioner is satisfied that the council's approach to identifying the information which it holds within the scope of the request was appropriate and proportionate.
20. The council has stated that it has carried out what it believed were adequate and appropriate searches and engaged with its staff in order to locate any relevant information falling within the scope of the request.
21. The council also stated that, where it has located relevant information, it has disclosed this to the complainant. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
22. Having considered all of the available information the Commissioner is satisfied that, on the balance of probabilities, the council has identified and disclosed all the information that it holds that is within the scope of the request

Procedural matters

23. Regulation 5 of the EIR requires public authorities to provide environmental information within 20 working days of receipt of a request.
24. In failing to provide a response to the complainant's request of 13 December 2023 within 20 working days, the Commissioner finds the council breached regulation 5(2) of the EIR.

Right of appeal

25. 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

26. 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.
27. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Ben Tomes
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