

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

Decision notice

Date: 18 February 2013

Public Authority: Sefton Council
Address: Magdalen House
30 Trinity Road
Bootle
Merseyside L20 3NJ

Decision (including any steps ordered)

1. The complainant requested information regarding a next door neighbour's extension which was affecting her property. Sefton Council disclosed information including a building site inspection report, but took 10 months to disclose the complete final page of the report.
2. The Commissioner's decision is that Sefton Council has breached regulation 5(2) in that it took longer than 20 working days to provide the complainant with the final page of the report. The Commissioner also considers that the Council has breached regulation 11(4) as it took longer than 40 working days to inform the complainant of the outcome of its internal review.
3. The Commissioner does not require Sefton Council to take any further steps.

Request and response

4. On 7 November 2011, the complainant wrote to Sefton Council (the Council) and requested information in the following terms:

'I am therefore requesting copies of all documents/letters/requirements which have been issued to No 14 & any other information regarding the extension and requirements which have yet to be fulfilled.'

5. The Council responded on 22 November and provided information, including a specific building site inspection report.
6. Following an internal review the Council wrote to the complainant on 19 July 2012. It provided clarification about its response of 22 November including confirmation that it had re-sent the complete last page of the report to the complainant.

Scope of the case

7. The complainant contacted the Commissioner on 2 July 2012 to complain about the way her request for information had been handled. The complainant also complained that all the information had not been disclosed to her.
8. The Commissioner contacted the complainant who confirmed that the outstanding issue was the fact that it took the Council approximately 10 months to disclose the reverse side of the last page to her.
9. The Commissioner also notes that there was a delay in carrying out the internal review.

Reasons for decision

10. The Commissioner notes that the Council dealt with this request under FOIA. However, he considers that the requested information is environmental as it is to do with an extension to a house.
11. Regulation 2(1) of the EIR states that environmental information is:

'...any information in written, visual, aural, electronic or any other material form on –

(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites...biological diversity and its components...and the interaction among those elements;

(b) factors, such as substances, energy, noise, radiation or waste...emissions...and other releases into the environment, likely to affect the elements referred to in (a);

(c) Measures (including administration measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements.'

12. The Commissioner considers that the requested information is environmental information in that it falls within the definition of environmental information provided in Regulation 2. He considers that it relates to an element of the environment as defined in regulation 2(1)(a) namely "land and landscape" .
13. The Commissioner interprets environmental information in a broad way. He considers that information such as building site inspection reports can be defined as environmental information if they relate to a measure or activity that has an effect on the environment. It can be argued that the in this case would have an effect on the environment. The Commissioner considers that the definitions found at regulation 2(1)(c) apply.

Reasons for decision

14. Regulation 5(2) of EIR provides that environmental information should be made available as soon as possible and no later than 20 working days after the date of receipt.
15. The complainant requested information on 7 November 2011. The Council disclosed information to her, including a specific building site inspection report.
16. However, although one side of the final page was disclosed initially the reverse side was not.
17. The complainant contacted the Council several times about this but the reverse side was not provided until 28 August 2012. Therefore the Commissioner considers that the Council breached regulation 5(2).
18. The Commissioner notes that the complainant requested an internal review on 15 May 2012 and the Council did not confirm that it had carried this out until 28 August 2012.
19. Regulation 11 provides that a complainant can complain about a public authority's response and that the public authority should review its response and respond to the applicant.
20. The Commissioner accepts that the Council originally handled the request under the FOIA and there are no explicit timescales for completion of internal reviews under the FOIA. However, the Commissioner believes that a reasonable time for completing an internal review is 20 working days from the date of the request for review. In exceptional circumstances it may be reasonable to take longer but in no

case should the time taken exceed 40 working days. The Commissioner is concerned that it took 72 working days for an internal review to be completed in this case.

21. Under regulation 11(4) of the EIR a public authority has 40 working days to conduct an internal review following receipt of a complaint. The complainant requested an internal review on 15 May 2012 and the Council did not provide the outcome of its review until 28 August 2012.
22. Therefore the Commissioner considers that the Council has breached regulation 11.

Right of appeal

23. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

24. 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.
25. 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

Jon Manners
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF