

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 25 June 2013

Public Authority: Copeland Borough Council
Address: Catherine Street
Whitehaven
Cumbria
CA28 7SJ

Decision (including any steps ordered)

1. The complainant has requested all correspondence regarding the development of Swallow Barn in Lowca from Copeland Borough Council ("the council").
2. The Commissioner's decision is that the council has breached regulation 5(2) of the EIR by failing to reply to the request within 20 working days.
3. As the council responded to the request during the course of the Commissioner's investigation, he does not require any steps to be taken by the council.

Request and response

4. On 18 May 2012, the complainant wrote to the council and requested information in the following terms:

"...all correspondence with regard the development of Swallow Barn, Lowca, Whitehaven, Cumbria and the Building Regs department..."
5. The council responded on 10 June 2013, outside of the prescribed 20 working days.

Scope of the case

6. The complainant contacted the Commissioner on the 22 October 2012 to complain that their request for information had not been responded to. During the course of the Commissioner's investigation the council provided the complainant with a response to their request, namely on 10 June 2013. The complainant asked the Commissioner to issue a decision notice to address the delay in providing a response. Therefore, this decision notice concerns the council's late response which was in breach of regulation 5(2) of the EIR.

Reasons for decision

Regulation 2

7. The first question for the Commissioner to address here is whether the information is environmental in accordance with the definition given in regulation 2(1) of the EIR. Environmental information is defined within regulation 2(1) as follows:

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

(a) the state of the environment, such as air and atmosphere, water, soil, land and landscape and natural sites including wetlands...

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

(c) measures (including administrative measures), such as policies, legislation, plans, programmes...and activities affecting or likely to affect the elements and factors referred to in (a) and (b)...".

8. The information requested by the complainant in this case relates to correspondence concerning the development of a building. The view of the Commissioner is that this correspondence would relate to planning activities, and so falls within regulation 2(1)(c) as it would affect elements and factors referred to regulations 2(1)(a) and (b). The information requested by the complainant is therefore environmental information. The Commissioner will therefore consider whether the request was dealt with in accordance with the EIR.

Regulation 5

9. Regulation 5(2) of the EIR requires that environmental information should be disclosed as soon as possible following receipt of a request and, in any event, within 20 working days. In this case the council failed to respond to the request within 20 working days of receipt and, therefore, it breached the requirement of regulation 5(2). The council should ensure that there is no repetition of this breach in relation to future requests.

Right of appeal

10. If 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

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

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