

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

Decision notice

Date: 29 November 2016

Public Authority: Bradford Metropolitan District Council

Address: City Hall
Centenary Square
Bradford
BD1 1HY

Decision (including any steps ordered)

1. The complainant has made a request to Bradford Metropolitan District Council ("the Council") for information about council tax, councillors and the sale of land. The Council has responded to some parts of the request, but has failed to respond to the remaining parts under the terms of either the Freedom of Information Act ("the FOIA") or the Environmental Information Regulations ("the EIR").
2. The Commissioner's decision is that the Council has breached the requirement of section 10(1) of the FOIA and regulation 5(1) of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Respond in full to the complainant's information request of 29 June 2016. This response should comply with the terms of the FOIA or EIR, depending on which regime is applicable.
4. The public authority 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 29 June 2016 the complainant wrote to the Council and requested information in the following terms:

(i) Please provide details of all operational instructions provided to junior and administrative or switchboard staff regarding enquiries made to the office of CEO resulting in Confidential or HLE (High Level Enquiries) being deferred

In the matter of Non Payment of Council Tax by the Leader of Bradford Council [redacted name] this year . I request that the council provide in the Public Interest the following information

(i) Whether that individual was fiscally more than one month in arrears at any given time

(ii) When such arrears occurred (Periods) and for for avoidance of doubt (what period they persisted over

(iii) Details of any papers or declarations held as part of electoral process declaring No Arrears

(iv) Details of all committees that the Leader has sat upon or presided upon for avoidance of doubt participated in , made a decision on or influenced an outcome financial or otherwise

(v) Confirmation that any or all of these matters have been investigated in the context of the Local Government Finance Act in the interest of Probity of The City

Matter Appropriation of Public Open Spaces (POS) & Asset Management -

That in the Matter of Woodside Play Area dealt with by [redacted name] Director Sport & Recreation and sub sequentially auctioned part thereof after attaining a £60 K Government Grant

(i) Please provide details of Advertisement under ss122 of The Local Government Act appropriating Public Open Space for this site (for avoidance of Doubt Play Area Meadway , Brow Woods BD6 2SPand requested of [redacted name] (Solicitor) and [redacted name] (Solicitor) for sometime outstanding

(ii) Please provide details of the conveyancing chain and legal advisors engaged or instructed on advising on the matter

(iii) Please provide appraisal report on Best Value Consideration in the disposal of this asset by auction , fees and officer time for avoidance of doubt the Sale Value of the asset after costs and auction and by whom completed (outstanding enquiry)

Matter of Appropriation of Wibsey Fair, Fair Road , Wibsey

(i) Please provide details times and dates of all engagements, discussion, which the council allege to have undertaken in the process of lawful appropriation made by objectors , duly made . Please respond with specific regard to the Act (i) To include an exhaustive report as to why the land was no longer needed (ii) What land would be given in lieu (iii) what market rights existed under to interpretation of the Domesday Book or otherwise (iv) what arrangements where in place to allow the Follyhall Rd use to use the Fairground to perpetuate the right in sucession to exercise horses for travellers in regard to the anual horse fair (v) what the Council assume to be the legal definition of Fair (vi) Why the only consultees where a Fairmans Guild consisting of the only contracted party with City of Bradford not that at large with Right to Use (v) what other users where likely to be affected

(ii) Please provide details indicating that the land was no longer required for its intended purpose by the above named officer deemed to have appropriated it

(iii) Please provide details of Delegated Power , relevant to the named signatory , for avoidance of doubt [redacted name], for avoidance of doubt , any meeting held in accordance with the councils constitution , delegating authority under the Process of Delegation of Officer Powers at any time prior to the signatory date

(iv) or in the alternative , that which the council, takes to rely upon as a lawful basis to supersede the duties inherent under the Local Government Act which protects or affords process to the taking of Open Space. Please therefore with due regard to the Councils Constitution with reference to Page 91 Table " Statutory and Proper Officers "identify under what remit [redacted name] acted in accordance with that clearly defined and to supply any document affording that delegated authority to the named party

(v) Please identify , given [redacted name] absence at Corporate Scrutiny and Overview what delegated powers the officers presenting the case with reference Page 91 Table " Statutory and Proper Officers of the council constitution had in the furtherance of this matter with specific reference to the Local Government Act under Item E of the agenda and for that matter at Call in at Scrutiny and Environment

(vi) Thereafter please provide the express advice given to Corporate Committee and by which solicitor , which by implication allowed members who did not hold proper or statutory office in accordance with the constitution had a right over rule objections duly made as a lawful

*process as part of a Corporate Body,
Executive Powers do not supersede the law , no one is above the law.*

(vii) Please provide the Date to which the Officer Appropriated the decision and whether that decision was arrived at before committee

(viii) In accordance with 14.25B2 please provide an evidential record of the decision taken along with reasons for the decision;

(ix) Please provide the constitutional basis as to why matters of administration relevant to s122 of The Local Government Act where being handled by the Receiving Directorate Highways and on what authority the receiving directorate had to assume objections duly made would be no longer considered if not responded. Please identify Which of those officers [redacted name] and one other was delegated to be a Statutory or Proper Office and whether in their undertaking as a consequence acted ultra vires

(x) Please identify as requested any site of any document submitted by [redacted name] as evidence or [redacted name] regarding a notional petition taken some years previous to the beginning of the lawful process specifically identifying the wording on the Questionnaire relevant to open space or appropriation

(xi) Please provide details of the lease , a lease being a contract made , outside process, to which the advertisement made reference in error as part of statutory notice. Please confirm in writing that the City accepts a Statutory notice with error to be acceptable under the principles of Wednesbury

(xii) Please confirm that an error was made on advertisement of notice that implied objection relation specifically to a lease or in the alternative a copy of the notice demonstrating it was not clear

(xiii) Please provide details of set aside funding for the Site at Wibsey Fair for avoidance of doubt, The amount sequestered in Total, the amount set aside incrementally and when, The Budget and its designated funding use – that given to be visible and known to the District Auditor. And any report indicating how the Car Park would over the course of 3 years contribute to Road Safety (Safer Roads Budget)

(xiv) Please provide copies of the committee decisions identifying which members voted for appropriation at the Executive Corporate Meeting of and which against viz the release at call in Environment & Scrutiny 29th June 2016 Please identify clearly as a matter of record all those Councillors who made declaration of conflict of interest but persisted in the decision making process , for avoidance of doubt , that given to include any member who participated in the South Bradford

*Area Committee that was responsible for funding acquisitions, any member on a planning panel relevant to the that matter, Please identify any member who held port folio or cabinet decisions that would likely have prejudiced the same that did not declare an interest Re Planning, Transportation and Design
Please provide as requested*

(i) Details of the City Solicitors SRA (Soliicitors Regulatory Authority) number or any practice identification held by the authority (as requested and outstanding in person)

(ii) Details , for avoidance of doubt , date of commencement of any contract relating to the post of City Solicitor (as requested and outstanding from HR)

(iii) Please confirm and provide any instruction given to or executed by any Solicitor Acting on Behalf or engaged by of The City of Bradford Metropolitan Council relating to any matters presented under diverse acts, to which the authority is incumbent by Duty , a duty being required in law , for avoidance of doubt Statutes of England and Wales , relating to [redacted name] or [redacted name].

(iv) Please provide letter of correspondence relating to separate matter [redacted name] View on Challenge [redacted name] versus City of Bradford MDC regarding funding and any alleged threat to recover personal assets (for avoidance of doubt retained elsewhere) to myself [redacted name].

(v) Please confirm and provide details of any instruction put in place by a Council Officer in writing , verbally recorded minutes or any IT system that has or would interfere in lawful communication duly made under any Statute or Act many and diverse or amount to interception by instructing members to forward confidential correspondence for either signatories on this request

(vi) Any and all forms of correspondence /communications, letters, emails, fax, and records in relation to all dialogue between any member legal or other employed by Bradford Metropolitan Council (whether or not a third party) and any member of 9 stone buildings London in particular any form of correspondence to or from [redacted name] and [redacted name] in relation to the application to Register land as a town or village green application VG 10 made to Bradford Metropolitan Council on the 1st April 2005 and relevant to the principle and co-applicant as a matter of Public Interest and consideration

In the Matter of representation by elected members (Councillors!) and as agents of the Council. Two of whom hold Cabinet positions in the same ward " Royds "

(i) Please provide details from all correspondence from the elected Members Clr [redacted name] and Clr [redacted name] indicating that they could not or would not under Section 3:3:3 of The Councils Constitution represent Constituents Concerns and in the former would not engage in any Planning representation for constituents because they had a Conflict of Interest

(ii) Please provide details of that interest referred to or any reason from the same from any source (Letter emails Planning file etc) regarding their failure to represent constituents in accordance with the Code of Conduct.

6. The Council responded on 8 August 2016. It provided some held information and advised that it would need further time in order to comply with the remainder of the request.
7. On 8 August 2016 the complainant requested an internal review. This was further requested on 19 August 2016 and 23 August 2016.
8. On 5 September 2016 the Council provided a response that the Commissioner interprets to be an internal review. In this the Council appears to advise that it will respond to outstanding requests, but that any further requests would be refused under section 14(1) and section 14(2) of the FOIA.

Scope of the case

9. The complainant contacted the Commissioner on 5 September 2016 to complain about the way his request for information had been handled.
10. The Commissioner considers the scope of this case to be the determination of whether the Council has responded to the request under the terms of the FOIA and EIR.

Reasons for decision

Section 10(1) FOIA, regulation 5(2) EIR – Time for compliance

11. Section 10(1) of the FOIA and regulation 5(2) of the EIR require that an information request should be responded to within twenty working days

of receipt. In this case it is evident to the Commissioner that the Council has not responded to the request in full.

12. On this basis the Commissioner must find a breach of section 10(1) of the FOIA and regulation 5(2) of the EIR.

Other matters

13. The Commissioner refers the Council to her public guidance about managing requests under the FOIA and EIR.
14. In relation to the FOIA, this guidance can be accessed at:
<https://ico.org.uk/for-organisations/guide-to-freedom-of-information/receiving-a-request/>
15. In relation to the EIR, this guidance can be accessed at:
<https://ico.org.uk/for-organisations/guide-to-the-environmental-information-regulations/receiving-a-request/>

Right of appeal

16. 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@hmcts.gsi.gov.uk

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

17. 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.
18. 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