

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

Date: 31 January 2017

Public Authority: Cumbria County Council
Address: The Courts
Carlisle
Cumbria
CA3 8NA

Decision (including any steps ordered)

1. The complainant has requested information which supports assertions on Cumbria County Council's website relating to ragwort. The Commissioner's decision is that Cumbria County Council did not meet the requirements of regulation 5(2) of the EIR. She does not require any steps to be taken to ensure compliance with the legislation.

Request and response

2. On 11 June 2016, the complainant wrote to Cumbria County Council ('the council') and requested information in the following terms:

"Your webpage:
Rights of Way - Frequently Asked Questions
[http://www.cumbria.gov.uk/roads-transport...](http://www.cumbria.gov.uk/roads-transport)

My request concerns the section 'Who is responsible for removing ragwort from the roadside?' on the above link to your website which contains various assertions and another of your webpages set out below. I would be interested to know the evidence basis for Cumbria CC making such claims.

Information required

1. The scientific or official information in the council's possession [sic] that supports the assertion that ragwort "is the most frequent cause of livestock poisoning in Britain"

2. The scientific or official information in the council's possession [sic] that supports the assertion that ragwort seeds "can lie dormant in the soil for up to 20 years"
3. The information in the council's possession [sic] that supports the assertion that the current level of action taken under the Weeds Act is less than it might otherwise be "because of a lack of resources"
4. The information in the council's possession [sic] that supports the assertion that the removal of ragwort from Highway verges "is supported by landowners and the Highways Agency."

Your webpage

Highway Maintenance - Grass cutting and roadside verges

<http://www.cumbria.gov.uk/roads-transport...>

Information required

5. Information held by the council that supports the assertion re ragwort that "All land managers are under a duty to control this plant if it grows on their land"
3. The council acknowledged the request on 13 June 2016 and said that it aims to provide the information within the statutory timescale of 20 working days, which in this case is 11 July 2016, subject to the information not being exempt or containing any references to third parties.
4. On 26 August 2016, the Commissioner notified the council that it had received a complaint relating to the request and asked it to provide a response to the complainant within 10 working days.
5. The council provided a response on 22 September 2016. It said that it does not hold the information which supports the statements, but will review the content of the webpage.

Scope of the case

6. The complainant initially contacted the Commissioner on 28 July 2016 to complain that his request for information had not been responded to. Following receipt of the council's response, the complainant requested that the Commissioner issue a decision notice regarding what he referred to as the council's 'lackadaisical attitude' towards its statutory responsibilities. The complainant did not dispute that the requested information was not held by the council, stating that he would have been surprised if the council had held the information.
7. The Commissioner has considered whether there has been a breach of the time limits for compliance at regulation 5(2) of the EIR.

Reasons for decision

Regulation 5 – Time for compliance

8. Regulation 5(1) states that a public authority that holds environmental information shall make it available on request. Regulation 5(2) states that this information shall be made available as soon as possible and no later than 20 working days after the date of receipt of request.
9. The council received the request on 13 June 2016. It responded on 22 September 2016, which is over three months after the date of receipt. Therefore, the council did not respond to the request within the statutory time limit in breach of regulation 5(2).

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@hmcts.gsi.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

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