

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

Date: 20 April 2017

Public Authority: Epping Forest District Council
Address: Council Offices
323 High Street
Epping
Essex
CM16 4BZ

Decision (including any steps ordered)

1. The complainant has asked Epping Forest District Council to provide him with copies of legislation and statutory guidance which concerns planning matters. The Council provided the complainant with website addresses so that he might access for himself the information he has asked for.
2. The Commissioner's decision is that Epping Forest District Council has complied with Regulations 5(1), 5(2) and 14 of the EIR by directing the complainant to the information he seeks. That information is easily accessed and freely available.
3. The Commissioner requires the public authority to take no further action in this matter.

Request and response

4. On 28 July 2016, the complainant wrote to Epping Forest District Council to request recorded information. Referring to the Council's email of 27 July 2016, the complainant asked to be provided with information under the following terms:

"Your email refers to

- 1) The Council's own Planning Policies but does not provide me with a copy of the Policies that you are referring to.

- 2) The relevant Planning Legislation of the Town and Country Planning Act 1990 s172 but does not provide me with a copy of the Legislation that you are referring to.
- 3) The National Planning Policy Framework paragraph 207 but does not provide me with a copy of the Policy you are referring to.
- 4) The Planning Practice Guidance March 2014 but does not provide me with a copy of the March 2014 Guidance that you are referring to.

Please post hard copies of the 4 Documents (detailed above) to my home address."

5. On 1 August, the Council wrote to the complainant to advise him that his request would be considered under the Environmental Information Regulations 2004. The Council informed the complainant that it would reply to his request within twenty working days and that he would receive its reply by 25 August 2016.
6. On 25 August, the Council responded to a number of information requests made by the complainant, including his request for copies of legislation and national guidance. The Council provided the complainant with internet website addresses¹ from where he can obtain printed copies of the documents he requires or view them on line.
7. On 30 September, the complainant wrote to the Council about its response to his request for information. The complainant acknowledged that the Council had provided him with a copy of the 'EFDC Local Plan 1998 and Alterations 2006'. These documents were hand-delivered to the complainant on 26 August.
8. The complainant asked the Council whether the 'EFDC Local Plan 1998 and Alterations 2006' are the current documents given that they are at least 10 years old. He also pointed out that the Council had not provided the other documents which he had requested in his request of 28 July
9. The complainant also referred the Council to his email of 1 August 2016, in which he asked the Council to provide him with a copy of the Environmental Information Regulations 2004. The complainant noted that the Council had responded to his requests by informing him that he

¹ <https://www.gov.uk/guidance/how-to-buy-printed-copies-of-official-documents>
<https://www.planningportal.co.uk>
<http://www.legislation.gov.uk>

had been sent him all of the Documents that he is entitled to receive. The complainant therefore asked the Council to confirm why he is not entitled to receive the following:

- 1) The relevant Planning Legislation of the Town and Country Planning Act 1990 s172.
 - 2) The National Planning Policy Framework paragraph 207.
 - 3) The Planning Practice Guidance March 2014
 - 4) The Environmental Information Regulations 2004
10. On 9 November, the Council wrote to the complainant about his requests. The Council referred him to its email of 25 August, in which he was advised that "The Legislation to which you refer does not belong to Epping Forest DC and is Parliamentary copyright". Again, the Council referred the complainant to the internet websites from where he can obtain printed copies of the documents he requires.
 11. The Council also advised the complainant that he could request an internal review by writing to its Director of Neighbourhoods.
 12. On 14 November, the Council provided the complainant with the email address of its Director of Neighbourhoods, together with a contact telephone number.
 13. On 14 November, the complainant wrote to the Council to request an internal review of its handling of his request for information.
 14. The Council concluded its internal review and wrote to the complainant on 24 November to advise him of the Council's final decision. The Council advised the complainant that it was satisfied his requests had been dealt with in accordance with the legislation and in a timely manner.

Scope of the case

15. The complainant contacted the Commissioner on 27 November 2016 to complain about the way his request for information had been handled.
16. The Commissioner has investigated whether the Epping Forest District Council has handled the complainant's request in accordance with the EIR/FOIA.

Reasons for decision

17. The Council has confirmed that the complainant's information request was considered under the provisions of the Environmental Information

Regulations 2004 ("the EIR"). The Council determined that the recorded information satisfies the definition of environmental information which is provided by Regulation 2 of the EIR.

18. Regulation 2 states –

"...environmental information" has the same meaning as in Article 2(1) of the Directive, namely 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 including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, 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, 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;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);..."

19. The Commissioner has considered the nature of the information which the complainant has asked for. She accepts that the legislation/statutory provisions which the complainant has requested can be said to satisfy the requirements of item (c) above. In accepting the Council's approach, the Commissioner recognises that she has given a very wide interpretation of what constitutes environmental information.

20. Under Regulation 5(1) of the EIR a public authority is required to 'make available on request' information which is environmental information.

21. The Commissioner has provided public authorities with guidance on what is permissible when they receive a request for environmental information which is already available online. This guidance makes clear that it will be sufficient for the authority to provide a link to that information.
22. The Regulations do not require the public authority to provide a hard-copy version on request if the information is publicly available and easily accessible to the requester in electronic form. However, the public authority should consider providing a hard-copy version if the individual cannot access the electronic version.
23. In this case the information which the complainant has requested is freely available and can be accessed at the websites which the Council directed the complainant to.
24. In providing the complainant with links to these sources of information, the Council can be said to have made the requested information available and therefore the Commissioner has decided that the Council has complied with Regulation 5(1).
25. The Commissioner has verified that the information requested by the complainant is available on-line at:

Town and Country Planning Act 1990

<http://www.legislation.gov.uk/ukpga/1990/8/contents>

National Planning Policy Framework

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf

Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Environmental Information Regulations 2004

<http://www.legislation.gov.uk/uksi/2004/3391/contents/made>

26. The Council's hand-delivered letter to the complainant of 26 August clearly explained why the Council was refusing to supply the complainant with the information he had requested. This being the case, the Commissioner has decided that the Council has complied with Regulation 5(2) of the EIR by virtue of its response being made within the twenty working day compliance period; and also that the Council has complied with Regulation 14, by virtue of it issuing a valid refusal.
27. The Commissioner considers that, had the Council dealt with the complainant's request under the provisions of the FOIA, the Council would have been able to rely on section 21 of that Act to refuse to

Reference: FER0657328

comply with the complainant's request. This is because the information is reasonably accessible to the complainant by other means.

Right of appeal

28. 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

29. 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.

30. 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