

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

Decision notice

Date: 29 August 2017

Public Authority: Southwark Council
Address: PO BOX 64529
London
SE1P 5LX

Decision (including any steps ordered)

1. The complainant has requested information relating to the leases and development of Queens Road Day Centre and Riverside Day Centre. Despite the intervention of the Commissioner, Southwark Council has failed to provide a response to the request in accordance with the EIR.
2. The Commissioner's decision is that Southwark Council has breached regulation 5(2) of the EIR in the handling of the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Southwark Council must provide the complainant with a response to the request in accordance with its obligation under the EIR by either providing the requested information or issuing a valid refusal notice under regulation 14.
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 1 March 2017, the complainant wrote to Southwark Council and requested information in the following terms:

"I would like to make a request for information under the The Freedom of Information (FOI) Act 2000. The information I require is as follows:

The details and content of any communication or correspondence in the past 12 months, internal or external, that the council (officers, members or contractors) has had in relation to:

- *The leases of the Queens Road Day Centre 133-137 Queen's Rd, London SE15 2ND and/or the Riverside Day Centre, 25 Cherry Garden Street, London, SE16 4QF*
- *The availability for development of the current sites of the Queens Road Day Centre and the Riverside Day Centre*
- *The suitability for development of the current sites of the Queens Road Day Centre and the Riverside Day Centre*

And any additional correspondence between officers in the Children's and Adults Services department and the Regeneration directorate relating to the Queens Road Day Centre and/or the Riverside Day Centre in the last 12 months which is not covered by the points above."

6. To date, the complainant has not received a response to the request for information.

Scope of the case

7. The complainant contacted the Commissioner on the 11 May 2017 to complain about the way her request for information had been handled.
8. The Commissioner first considered whether the request is for environmental information that should be handled under the EIR, rather than the FOIA. She then considered whether Southwark Council has met the timescale for compliance under the appropriate access regime.

Reasons for decision

Is the information environmental information?

9. Information is 'environmental information' and must be considered for disclosure under the terms of EIR rather than the FOIA if it meets the definition set out in regulation 2(1)(a) to 2(1)(f) of the EIR.
10. The Commissioner considers the information in this case can be broadly classed as environmental information, as defined in regulation 2(1)(c) of

the EIR. This says that any information on measures such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements or factors of the environment listed in regulation 2(1)(a) and 2(1)(b) will be environmental information. Two of the elements listed under 2(1)(a) are land and landscape.

11. The request is for information relating to the potential redevelopment of two sites owned by Southwark Council and the sites' sustainability and availability for such redevelopment. The Commissioner considers the request therefore relates to a measure as defined in regulation 2(1)(c) of the EIR which will or would be likely to affect the elements described in 2(1)(a), namely the land and landscape.

Regulation 5 – duty to make available environmental information on request

12. Regulation 5(1) of the EIR says that a public authority that holds environmental information must make it available on request.
13. Regulation 5(2) of the EIR says that the authority must make the information available as soon as possible and no later than 20 working days after the date of receipt of the request.
14. The request in question was made on 1 March 2017, and a response is yet to be provided. The Commissioner therefore finds that Southwark Council breached regulation 5 of the EIR in failing to respond to the request within 20 working days.
15. On 17 July 2017, the Commissioner wrote to Southwark Council, requesting that it respond to the request within 10 working days. She informed Southwark Council to either provide the information requested or issue a refusal notice in accordance with the requirements of section 17 of the FOIA or regulation 14 of the EIR as appropriate. She also provided links to her Guide to Freedom of Information and guidance issued on the time limits for responding to a request for information.
16. To date, the Southwark Council has not provided a response to the complainant. It is therefore clear to the Commissioner that, in this case, Southwark Council has failed to respond to the request in accordance with the legislation.

Right of appeal

17. 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

18. 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.
19. 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

Pamela Clements
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