

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

Decision notice

Date: 15 January 2019

Public Authority: Essex County Council

Address: PO Box 11
County Hall
Chelmsford
Essex
CM1 1QH

Decision (including any steps ordered)

1. The complainant has requested a copy of a waste collection contract. Essex County Council withheld some information, providing a redacted version of the contract. However, during the course of the Commissioners investigation it decided to release previously redacted information.
2. The Commissioner's decision is that in withholding information which it later released, Essex County Council has failed to provide information within the statutory timescale and therefore breached Regulation 5(2) of the EIR.
3. As the information has now been released, the Commissioner does not require the public authority to take any steps.

Request and response

4. On 22 March 2018, the complainant wrote to Essex County Council ('the council') requesting information in the following terms:

"We require a copy of the contract entered into between the authority and Veolia in relation to the collection and transfer of waste within the authority's administrative area."
5. The council responded on 20 April 2018 and provided some information within the scope of the request (a redacted copy of the contract document) but refused to provide the remainder. It cited the exceptions at EIR regulations: 12(5)(e) – confidentiality of commercial or industrial information and 12(4)(b) – manifestly unreasonable requests.
6. Following an internal review the council wrote to the complainant on 30 May 2018. It changed its position to rely solely on the exception at regulation 12(5)(e) for withholding the redacted information.
7. In response to the Commissioner's investigation, the council revised its position and released the majority of the information to the complainant on 17 December 2018. In the covering letter to the complainant it confirmed *"we will now be releasing a copy of the full contract without any redactions and have included information which was removed under EIR Regulation 12 (5)(e) in the previous disclosure to you."*
8. The council continued to withhold some information citing the exception at regulation 13 – personal data. It stated to the complainant *"we will be making redactions to certain information where this relates to personal information under Regulation 13 (Personal Data) of the Environmental Information Regulations 2004. This mainly relates to TUPE information and names of individual employees have been included and it would clearly be unfair to release names of employees who transferred."*

Scope of the case

9. The complainant initially contacted the Commissioner on 8 June 2018 to complain about the way the request for information had been handled, specifically that the council was withholding information.
10. On receiving the updated response of 17 December 2018, the complainant has confirmed to the Commissioner that they are satisfied with the information provided. However they remain dissatisfied with the way the council handled the request.

11. The Commissioner therefore considers that the scope of the case, in light of the investigation and the subsequently released information, is to determine whether the council dealt with the information request in accordance with the EIR.

Reasons for decision

Regulation 5 – Duty to make environmental information available on request

12. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request.
13. Regulation 5(2) of the EIR states that information should be made available *"as soon as possible and no later than 20 working days after the date of receipt of the request."*
14. In this case, the complainant requested the information on 22 March 2018, the council responded on 20 April 2018 and provided some information but withheld the remainder on the basis of two exceptions. An internal review of the request on 30 May 2018 upheld this position. During the Commissioners enquiries the council then reconsidered its position and released previously redacted information on the 17 December 2018.
15. The council took over 10 months to provide some of the requested information, which is greater than the 20 working days specified by the EIR. As such, the Commissioner finds that the council breached regulation 5(2).

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
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