

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 26 April 2019

Public Authority: Leeds City Council
Address: Civic Hall
Calverley Street
Leeds
LS1 1UR

Decision (including any steps ordered)

1. The complainant has requested information about the awarding of a feasibility study for the Elmet Greenway. The Council refused the request under regulation 12(4)(b) of the EIR – that it was manifestly unreasonable. However the Council’s refusal failed to inform the complainant of his right to appeal the Council’s decision, and of the right to appeal to the Information Commissioner
2. The Commissioner’s decision is that Leeds City Council has therefore breached regulation 14(5). She requires the Council to issue a fresh refusal notice that complies fully with the regulations.
3. The Council 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

4. On 22 June 2018 the complainant made the following request for information:

'I wish to be disclosed the details and documentation in relation to the awarding of the elmet Greenway feasibility study to sustrans.

Your reasons for refusal no longer apply as this is a brief uncomplicated request. I would expect this to be done within 20 days as you have already wasted 40 days and your response or lack of is obstructive.'

5. The request was made immediately after the Council had refused another request about the Elmet Greenway, relying on regulation 12(4)(b) of the EIR as it considered the request to be manifestly unreasonable.
6. The Council responded to the 22 June 2018 request on 26 June 2018, confirming that as it was linked to previous requests about the greenway, it was also deemed to be manifestly unreasonable.

Scope of the case

7. The complainant contacted the Commissioner on 4 October 2018 to complain about the way his request for information had been handled. He was concerned about the contracting process for the feasibility study about the proposed track, and holds that alternatives to the proposal have not been properly considered.
8. The Commissioner notes that the Council failed to undertake a review of its response to the request, which is necessary in order for the Commissioner to consider the complaint. Having reviewed the refusal notice, she can see that the Council did not provide the complainant with information about the right to appeal its decision, or information about the right to appeal to the Commissioner, as required by regulation 14(5).

Reasons for decision

Regulation 14(5)

9. Regulation 14(5) states that

The refusal shall inform the applicant—

(a) that he may make representations to the public authority under regulation 11; and

(b) of the enforcement and appeal provisions of the Act applied by regulation 18.

10. As can be seen from the 'scope of the case', the Council failed to provide the complainant with information about how to appeal the Council's decision, or the Information Commissioner's details if he remained dissatisfied with the Council's handling of the request. It appears that the Council deemed the refusal notice to be satisfactory as under the FOIA, a public authority may refuse to respond to subsequent requests that have been classed as vexatious. However this is not the case with the EIR and all refusal notices should provide information about the right to appeal to both the Council and the Commissioner. She therefore finds that the Council breached regulation 14(5) of the EIR, and she reminds the Council of the need to fully understand its obligations under the legislation and ensure staff are provided with adequate guidance.

Right of appeal

11. 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

12. 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.
13. 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
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