

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

Date: 18 November 2019

Public Authority: Leicestershire County Council
Address: County Hall
Glenfield
Leicester
LE3 8RA

Decision (including any steps ordered)

1. The complainant has requested 'public rights of way' spatial data.
2. Leicestershire County Council initially refused to provide the information citing EIR 6(1) – Form and format of information. During the Commissioner's investigation the council reconsidered the request and subsequently provided the information.
3. The Commissioner's decision is that the council breached regulation 5(2) of the EIR because it provided the information outside of the required 20 working days.
4. As the information has now been provided to the complainant, the Commissioner does not require the council to take any steps.

Request and Response

5. On 23 April 2019, the complainant wrote to Leicestershire County Council ('the council') and requested information in the following terms:

"Please could you provide me with all the latest Rights of Way for Leicestershire as spatial data under the open government license?

This should include:

- 1) Spatial data as vector polylines in a common GIS format (e.g. Esri Shapefile, GeoPackage, GML, KML, MapInfo TAB, GeoJSON*
- 2) Associated attribute data including, where possible:*
 - a. Type of right of way (e.g. footpath, bridleway, RUPP, BOTAT etc) - REQUIRED*
 - b. Name of right of way*
 - c. Description of right of way*
 - d. Date of capture*
 - e. Date of last update*

If the source data is already available/accessible electronically, then please provide a hyperlink(s) to where the data can be downloaded. Otherwise, please provide the source files directly to me at this email address."

6. The council responded on 25 April 2019 and refused to provide the requested information. The council did not cite an exception, but made this statement:

"the information you have requested is already available without charge from the authority website. An interactive map showing public rights of way can be found @ <https://www.leicestershire.gov.uk/roads-and-travel/cycling-and-walking/where-to-walk-in-leicestershire>

7. Following a query from the complainant, the council further responded on 23 May 2019 to cite EIR 6(1) – Form and format of information:

"We are unable to provide the information in the requested format as under Regulation 6(1)(b) of EIR 2004: 'The public authority does not have to comply with the preference if it is reasonable to make the information available in another form or format, or if the information is already publicly available and accessible in another form or format'. We have confirmed that the information is publicly available and is easily accessible."

8. The complainant requested an internal review on 28 May 2019. The council responded on 25 June 2019 and upheld the original position.
9. The council decided to change its position during the course of the Commissioner's investigation; it disclosed the requested information to the complainant on 5 November 2019.

Scope of the case

10. The complainant contacted the Commissioner on 26 June 2019 to complain about the way his request for information had been handled.
11. The complainant outlined the grounds of their initial complaint, being that:
 - The 'Rights Of Way' data, contained in the Google map on the council's web page, is not downloadable, accessible or usable other than through the map and cannot be separated from the background Google map.
 - The 'Rights of Way' data could be an be easily provided by the council in whatever vector GIS format it uses to maintain the data, so there would be minimal cost incurred. Also that the council's 'Rights of Way' data is not accessible in a vector format that is useable outside of their web page.
 - The spatial data requested is public information that is managed by the council on behalf of the public. Therefore, the information should be publicly available and easily accessible, without licensing restrictions, in its original vector spatial format rather than displayed simply on a map on a web page.
 - Several other local authorities, have provided similar Rights of Way information to the complainant whilst others make it available for download in a range of vector spatial formats under an OGL (Open Government Licence).
12. Following the disclosure from the council on the 5 November 2019 the complainant confirmed they are satisfied that the information provided meets the requirements of the request. However they remain dissatisfied with the time taken to fulfil the request.
13. The Commissioner therefore considers the scope of the case is to decide whether the council has breached regulation 5(2) of the EIR – Time to respond.

Reasons for decision

Regulation 5(2) of the EIR – Time to respond

14. Regulation 5(1) requires a public authority to provide information it holds when requested. Regulation 5(2) of the EIR requires this information to be provided to the requestor within 20 working days following receipt of the request.
15. The complainant requested the information on the 23 April 2019 and the council provided the information on 5 November 2019.
16. This is a period of more than six months and as such it is outside of the required 20 working days. Therefore the Commissioner finds that the council has breached regulation 5(2) of the EIR.
17. As the information has now been provided, the Commissioner does not require the council to take any steps.

Right of appeal

18. 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@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. 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.
20. 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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Wycliffe House
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