

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

Date: 28 September 2020

Public Authority: Carmarthenshire County Council
Address: foia@carmarthenshire.gov.uk

Decision (including any steps ordered)

1. The complainant has requested various information in respect of compliance with Part 91A of the Buildings Regulation Act 1984. The Council refused the request on the basis of regulation 13 of the EIR on the same basis it had refused a related request. However, subsequent to the First-tier Tribunal's ruling on the related request [EA/2018/0158] the Council amended its response and agreed to provide the information to the complainant.
2. The Commissioner's decision is that in failing to provide the information within the required timescales (20 working days from receipt of the request), Carmarthenshire County Council has breached regulation 5 of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the information to the complainant
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 3 September 2019, the complainant wrote to Carmarthenshire Council and requested the following information:

"...documents which the Council used as proof that the existing buildings construction complies with Part A legal requirement to safely support the combined dead, imposed and wind loads when it granted Part A Buildings Regulation approval."

6. The Council responded on 1 October 2019. It stated that it was refusing the request on the same basis (regulation 13) as its amended response dated 16 July 2019 to his previous (and related) request.
7. Following an internal review the Council wrote to the complainant on 22 November 2019. Whilst it acknowledged the complainant's comments in respect of redacting the names and addresses, it stated that personal data is much broader than names and addresses.

Scope of the case

8. The complainant contacted the Commissioner on 13 December 2019 to complain about the way his request for information had been handled.

The complainant informed the Commissioner that the Council had refused to let him see building regulations information which he argued breached paragraph 91A of the Building Act 1984 which requires councils to keep a register of building regulations documents and plans available for inspection. He further stated that the Council had stated that the legislation was not yet in force, but the government's web page contradicted this.

9. The Commissioner considers that as the Council has subsequently agreed to provide the information to the complainant, that the scope of her investigation is to consider whether the Council complied with its obligations under regulation 5(2) of the EIR.

Reasons for decision

Regulation 5 – Duty to make available environmental information on request

10. Regulation 5(1) of the EIR provides a general right of access to environmental information held by public authorities. Whilst regulation 5(2) specifies the time for compliance and states:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

11. The Commissioner notes that the complainant requested the information subject to this notice on 3 September 2019. However, although the Council has subsequently agreed to provide this information, it has not as yet done so due to resource difficulties associated with the COVID-19 pandemic and accessing part of the information which is in hard copy format. Whilst the Commissioner accepts the difficulties associated with the pandemic, she notes that the Council had breached regulation 5(2) of the EIR before these difficulties arose.

Right of appeal

12. 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

13. 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.
14. 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

**Catherine Dickenson
Senior Case Officer
Information Commissioner's Office
Wycliffe House
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Wilmslow
Cheshire
SK9 5AF**