

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

Decision notice

Date: 13 October 2020

Public Authority: Bristol City Council
Address: The Council House
College Green
Bristol
BS1 5TR

Decision (including any steps ordered)

1. The complainant has requested information about the development of Temple Island. Bristol City Council ("the Council") had failed to respond at the date of this notice.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached Regulation 5(2) of the Environmental Information Regulations ("the EIR").
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the EIR, to the request.
4. 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 2 January 2020, the complainant wrote to the Council via the whatdotheyknow.com (WDTK) website and requested information in the following terms:

"I wish to see full copies of the following:

- 1. The lease for the Temple Island site.*
- 2. The contract with Legal & General for Temple Island development.*
- 3. The memorandum of understanding / five year agreement with Legal & General for the Temple Island development."*

6. An automated acknowledgement was received on the WDTK request thread on 3 January 2020 but, despite several chasers, the Council had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 19 August 2020 to complain about the way his request for information had been handled.
8. In line with her usual practice, the Commissioner contacted the Council on 18 September 2020 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days.
9. The Council responded to the Commissioner on the 22 September 2020 to say that, although it accepted that an acknowledgement had been provided, it had no record of the request on its systems. It promised to expedite the request and inform the complainant accordingly.
10. The complainant contacted the Commissioner on 6 October 2020 to notify her that the request had not been responded to.
11. Whilst the Council was responsive to her enquiries and she is mindful of the ongoing burden of the pandemic, the Commissioner also notes that this request has been outstanding for over ten months. The complainant has exercised considerable patience thus far in waiting for a response and it would be unreasonable to expect him to continue waiting. The Commissioner therefore considers that a decision notice is now appropriate.

12. The Commissioner considers that the scope of her investigation is to determine whether the Council has complied with Regulation 5(2) of the EIR.

Reasons for decision

13. Regulation 2(1) of the EIR defines environmental information as being information on:

- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;*
- (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);*
- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;*
- (d) reports on the implementation of environmental legislation;*
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and*
- (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);*

14. The Commissioner has not seen the requested information but, as it is information relating to the development of a parcel of land, she believes that it is likely to be information about a "measure" affecting, or likely to affect, one or more of the elements of the environment (particularly soil and landscape). For procedural reasons, she has therefore assessed this case under the EIR.

15. Regulation 5(1) states that: *"a public authority that holds environmental information shall make it available on request."*
16. Regulation 5(2) states that such information shall be made available *"as soon as possible and no later than 20 working days after the date of receipt of the request."*
17. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
18. Whilst the request does not appear to have been logged on the Council's case management system, an automated response was generated and the Commissioner therefore considers that the request was received on 2 January 2020.
19. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached Regulation 5(2) of the EIR.

Right of appeal

20. 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

21. 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.
22. 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

Phillip Angell
Group Manager
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SK9 5AF