

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 23 July 2021

Public Authority: Three Rivers District Council
Address: Three Rivers House
Northway
Rickmansworth
Herts
WD3 1RL

Decision (including any steps ordered)

1. The complainant requested from Three Rivers District Council (“the Council”) information relating to a specific planning application. By the date of this notice, the Council had not provided the complainant with a substantive response to his request.
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 EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - The Council must issue a substantive response to the request in accordance with its obligations under the EIR.
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 22 March 2021, the complainant wrote to the Council and requested information in the following terms:

"I would like to make a FOI/EIR request to see the original draft report for application [reference redacted] in which The Case Officer initially was recommending approval of the application. Whilst the Case Officer might have deleted the document from the case file it is likely that a copy will exist as a hard copy or attached to emails sent between the Case Officer, Ward member, Legal Department or other members or Officers of Three Rivers."

6. On 27 April 2021 and 4 May 2021, as the complainant had not received a response, he wrote to the Council to request an update on the status of his request.
7. The Council wrote to the complainant on 4 May 2021 to acknowledge the complainant's email of 4 May 2021. By the date of this notice, the Council had not provided the complainant with a substantive response to his request.

Scope of the case

8. The complainant contacted the Commissioner on 3 June 2021 to complain about the Council's failure to respond to his request.
9. The Commissioner contacted the Council on 29 June 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. The Commissioner received neither an acknowledgement nor a response to this correspondence from the Council.
10. The Commissioner also contacted the complainant on 29 June 2021 to explain that the Council had been given 10 working days from that date within which to provide a response to his request.
11. The complainant has provided evidence that he has received an acknowledgement from the Council but, by the date of this notice, had not received a substantive response to his information request.
12. The scope of this notice and the following analysis is to consider whether the Council complied with regulation 5(2) of the EIR.

Reasons for decision

Was the requested information environmental?

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

"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) and (b) as well as measures or activities designed to protect those elements;"

14. The Commissioner notes that the wording of the request is for information about a planning application. She believes that this is likely to be information about policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements and factors referred to in regulation 2(1)(a) and regulation 2(1)(b). For procedural reasons, the Commissioner has therefore assessed this case under the EIR.

Regulation 5

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:

"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."

17. The Commissioner considers that the request in question fulfilled the above criteria and therefore constituted a valid request for recorded information under the EIR.
18. From the evidence provided to the Commissioner in this case, it is clear that the Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.

Right of appeal

19. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

20. 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.
21. 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

Sarah Clouston
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF