

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 28 May 2021

Public Authority: London Borough of Tower Hamlets

Address: Town Hall
Mulberry Place
5 Clove Crescent
E14 2BG

Decision (including any steps ordered)

1. The complainant has requested information from the London Borough of Tower Hamlets (the Council) about any planning, inspections and building controls carried out on a specified property. The Council had failed to provide a response by 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, in accordance with its obligations 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 28 July 2020, the complainant wrote to the Council and requested information in the following terms:

"I am the owner and occupier of the address listed below, over which I understand that Tower Hamlets Council has inspected and issued building control certificates including fire safety.

Could you please set out:

a) a listing of activity undertaken by Tower Hamlets Council with respect to the planning, inspection, approval and ongoing inspection/ monitoring of this property including but not limited to building controls and fire safety.

b) the process, timeline and cost of obtaining documentation with respect of conducting the activities listed under a) including but not limited to contractual documentation, working papers/ files, documentation of final outcomes or certification. Where parts or sections of this documentation can be obtained on a quicker timescale or at a reduced overall cost, please also provide indications where this is possible.

Postal address (current address)

(Address redacted)

Address of the work (former address)

(Address redacted)

6. The complainant wrote to the Council again on 6 October 2020 and 16 October 2020 as he had not received a response to his information request.
7. The Council acknowledged the request on 20 October 2020 where they advised the complainant that they were dealing with the request under the EIR.
8. The Council had failed to provide a substantive response by the date of this notice.

Scope of the case

9. The complainant contacted the Commissioner on 13 December 2020 to complain about the way their request for information had been handled.

10. In line with her usual practice, the Commissioner contacted the Council on 11 May 2021 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
11. 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

12. 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);*
13. The Commissioner has not seen the requested information but, as it is information relating to building planning and controls, she believes that it is likely to be information about measures affecting or likely to affect

the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.

14. Regulation 5(1) states that: "*a public authority that holds environmental information shall make it available on request.*"
15. 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.*"
16. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
17. 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.

Other matters

18. The Commissioner wishes to place on record her understanding of the immense pressures placed on public authorities during the coronavirus pandemic. She is sympathetic to the difficult decisions such authorities must make, between prioritising front-line services and continuing to meet their obligations under the FOIA.

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: 0300 1234504
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

**Phillip Angell
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**