

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 8 February 2021

Public Authority: London Borough of Hackney
Address: Town Hall
Mare Street
London
E8 1EA

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Hackney (the London Borough) about a traffic management order. By the date of this notice the London Borough had not issued a substantive response to this request.
2. The Commissioner's decision is that the London Borough has breached regulation 5(2) of the EIR in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the London Borough to take the following step to ensure compliance with the legislation.
 - The London Borough must provide a substantive response to the request in accordance with its obligations under the EIR.
4. The London Borough must take this step 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 19 October 2020, the complainant wrote to the London Borough and requested information in the following terms:

"There is an off-street parking area in Alexandra Mews [link redacted].

Under the provisions of the Environmental Information Regulations 2004, I hereby request a copy of the Traffic Management Order in force at this location."

6. The London Borough acknowledged the request on 19 November 2020. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 December 2020 to complain about the London Borough's failure to respond to their request.
8. The Commissioner has considered whether the London Borough has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

Reasons for decision

9. 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);

10. The Commissioner has not seen the requested information but has considered the wording of the request and notes that it is for information about a traffic management order. She believes that this is likely to be information about policies, legislation, plans, programmes, environmental agreements and activities likely to affect the elements and factors referred to in Regulation 2(1)(a), Regulation 2(1)(b) and Regulation 2(1)(c). For procedural reasons, she has therefore assessed this case under the EIR.
11. Regulation 5(1) states that: *"a public authority that holds environmental information shall make it available on request."*
12. Regulation 5(2) of the EIR 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."
13. On 18 January 2021 the Commissioner wrote to the London Borough, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
14. Despite this intervention the London Borough has failed to respond to the complainant.
15. From the evidence provided to the Commissioner in this case, it is clear that the London Borough did not deal with the request for information in accordance with the EIR. The Commissioner finds that the London Borough has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Other matters

16. 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 EIR.

Right of appeal

17. 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

18. 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.
19. 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

Ben Tomes
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Water Lane
Wilmslow
Cheshire
SK9 5AF