

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 15 February 2021

Public Authority: Sheffield City Council

Address: Town Hall
Pinstone Street
Sheffield
S1 2HH

Decision (including any steps ordered)

1. The complainant requested from Sheffield City Council ("the Council") information relating to the Gleadless Valley masterplan.
2. The Commissioner's decision is that the Council has failed to carry out a reconsideration (internal review) of a response it provided, under the Environmental Information Regulations ("the EIR"), within 40 working days and has therefore breached Regulation 11 of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Reconsider how it responded to the original request and inform the complainant of the outcome of that reconsideration in accordance with Regulation 11 of 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 15 August 2019, the complainant wrote to the Council via the What Do They Know website and requested information in the following terms:

"Please provide all recorded information (email, communication, diary entries, Calendar) in relation to the scheduling councilors, council officers, room, equipment for the Gleadless Valley masterplan.

Please provide any and all communications from Cllr Paul Wood, with either Cllr Lewis Dagnall or Cllr Cate McDonald or Cllr Turpin regarding the Gleadless Valley master plan or the meeting from July 1st 2019 - present.

Please provide copies the communications from the FOI team to the relevant departments in making the request for information , also please provide a copy of the responses received back.¹"

6. On 16 August 2019 the Council wrote to the complainant to ask him to clarify his request for information. The complainant responded on 21 August 2019 and provided further information to clarify his request.
7. The Council wrote to the complainant again on 30 August 2019 to ask for further clarification. The complainant responded on 7 September 2019 and provided information to further clarify his request.
8. On 21 October 2019 the Council wrote to the complainant and refused the request citing regulation 12(4)(e) (internal communications) and regulation 13(1) (personal data) of the EIR.
9. The complainant requested a review on 24 October 2019. The Council acknowledged the complainant's request for an internal review on 25 October 2019.
10. On 24 January 2020, as the complainant had not received the outcome of the Council's internal review, he wrote to the Council to ask for an update on the status of its internal review.

¹ https://www.whatdotheyknow.com/request/gleadless_valley_master_plan

11. The complainant wrote to the Council again on 7 June 2020 to ask for a further update on the status of the Council's internal review.
12. On 21 July 2020, as the complainant had not received the outcome of the Council's internal review, he wrote to the Council to request information relating to the Council's handling of his request for information.
13. The Council responded to the complainant's information request on 23 July 2020 and provided him with an update on the status of its internal review.
14. On 4 November 2020, as the complainant had not received the outcome of the Council's internal review, he wrote to the Council again to request an update on the status of its internal review.
15. The Council wrote to the complainant on 20 November 2020 to apologise for its delay in carrying out its internal review and to provide the complainant with an update on the status of its internal review.
16. On 7 December 2020, as the complainant had not received the outcome of the Council's internal review, he wrote to the Council to ask for an update on the status of the Council's internal review.

Scope of the case

17. The complainant contacted the Commissioner on 27 December 2020 to complain about the way his request for information had been handled.
18. In line with her usual practice, the Commissioner contacted the Council on 22 January 2021 to highlight the outstanding response. She requested that the Council complete its reconsiderations within 10 working days.
19. Whilst the Council responded to the Commissioner on 5 February 2021 to apologise for its delay in completing its internal review and to ask for further time, the Commissioner considers that the Council has had sufficient time to complete its internal review.
20. The complainant contacted the Commissioner on 5 February 2021 to request a decision notice considering the Council's compliance with the EIR.
21. The scope of the Commissioner's investigation is to determine whether the Council has complied with Regulation 11 of the EIR.

Reasons for decision

Was the requested information environmental?

22. 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);*

23. The Commissioner has not seen the requested information but, as it is information relating to the redevelopment of an area, she believes that it is likely to be information about the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.

Regulation 11 - reconsideration

24. Regulation 11 of the EIR states that:

- (1) *Subject to paragraph (2), an applicant may make representations to a public authority in relation to the applicant's request for environmental information if it appears to the applicant that the authority has failed to comply with a requirement of these Regulations in relation to the request.*
 - (2) *Representations under paragraph (1) shall be made in writing to the public authority no later than 40 working days after the date on which the applicant believes that the public authority has failed to comply with the requirement.*
 - (3) *The public authority shall on receipt of the representations and free of charge—*

 - (a) *consider them and any supporting evidence produced by the applicant; and*
 - (b) *decide if it has complied with the requirement.*
 - (4) *A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.*
 - (5) *Where the public authority decides that it has failed to comply with these Regulations in relation to the request, the notification under paragraph (4) shall include a statement of—*

 - (a) *the failure to comply;*
 - (b) *the action the authority has decided to take to comply with the requirement; and*
 - (c) *the period within which that action is to be taken.*
25. From the evidence presented to the Commissioner in this case it is clear that, in failing to carry out an internal review within 40 working days, the Council has breached Regulation 11 of the EIR.

Right of appeal

26. 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

27. 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.
28. 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
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**