

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 20 July 2022

Public Authority: Oldham Metropolitan Borough Council
Address: Civic Centre
West Street
Oldham OL1 1UT

Decision (including any steps ordered)

1. The complainant requested information from Oldham Metropolitan Borough Council ("the Council") about any action it had taken over obstructions to public rights of way ("PROWs"). The Council did not issue a substantive response within 20 working days, as required by the EIR.
2. The Commissioner's decision is that the Council breached regulation 5(2) of the EIR. Since a response has now been provided, he does not require the Council to take any steps.

Request and response

3. On 8 February 2021, the complainant wrote to the Unity Partnership (a wholly-owned company providing a range of services to the Council) to request information of the following description:

"... regarding the PROWs that are blocked. There are 10 of these on my monitoring list, some going back several years, and a couple added more recently but none as yet have been re-opened. So that I can update my monitoring list would you please let me know the dates the letters were sent, any response from the landowner and any subsequent action taken to try and secure the reopening."

4. The Unity Partnership replied the same day, stating simply that it had written to the landowners "as requested". Later that day, it further stated it could not comment on actions it may or may not take with various landowners or residents, due to the Data Protection Act 2018.
5. The complainant chased a response to his request on 24 February, 24 March and 6 April 2021. On 8 April 2021, he was advised that it had been logged as a freedom of information request.
6. The Council issued a substantive response on 5 May 2021. The response included the date on which a relevant letter had been sent.

Scope of the case

7. The complainant contacted the Commissioner on 22 June 2021 to complain about the way his request for information had been handled.
8. During the course of the investigation, it was established that the Council held no further relevant information at the date of the request, which the complainant accepts.
9. This notice covers the time taken by the Council to respond to the request.

Reasons for decision

Regulation 5 – duty to provide environmental information

10. Regulation 5(1) of the EIR states that, subject to certain provisions, a public authority that holds environmental information shall make it available on request.
11. Regulation 5(2) states that the information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request.
12. The Commissioner is satisfied that the request fell to be considered under the EIR, since the requested information was "information on measures and/or activities likely to affect the elements and factors of the environment", and therefore fell within the definition of "environmental information" at regulation 2(1)(c) of the EIR.
13. In this case, the request was made on 8 February 2021, and the Council did not issue a substantive response, complying with the requirements

of the EIR, until 5 May 2021. This clearly exceeds the 20 working days allowed under regulation 5(2).

14. In light of the above, the Commissioner has determined that the Council failed to comply with regulation 5(2) of the EIR.
15. Since a response has been provided, no steps are ordered.

Right of appeal

16. 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

17. 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.
18. 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

Sophie Turner
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
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