

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 14 June 2022

Public Authority: Bristol City Council
Address: The Council House
College Green
Bristol
BS1 5TR

Decision (including any steps ordered)

1. The complainant requested from Bristol City Council ("the Council") information relating to specific building works. The Council stated that no information was held. The complainant believed that information was held.
2. The Commissioner's decision is that the Council does not hold the requested information.
3. The Commissioner does not require the Council to take any steps.

Request and response

4. On 4 March 2022, the complainant wrote to the Council and requested information in the following terms:
 1. **Wessex water / pipeline behind [redacted address] – risk assessments before and during the works, sound decibels recorded before & during works – did they exceed legal limits?**
 2. **Bristol city councils own health and safety reports before & during the works.**

3. Any checks after completions – area is now flooded & sinking grounds. Dates: start of work 2018 – ongoing as in ground issues since completion.

5. The Council responded on 25 March 2022. It stated that the information was not held.
6. Following an internal review the Council wrote to the complainant on 5 May 2022. It maintained its original response.

Scope of the case

7. The complainant contacted the Commissioner on 17 May 2022 to complain about the way their request for information had been handled, and specifically that the Council held the requested information.
8. The scope of this case and of the following analysis is whether the Council is likely to hold the information.

Reasons for decision

Regulation 5(1) – Duty to make available environmental information on request

9. Regulation 5(1) states that any person making a request for information is entitled to have that information communicated to them. This is subject to any exceptions that may apply.
10. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal (Information Rights) decisions, applies the civil standard of the balance of probabilities.
11. In other words, in order to determine such complaints, the Commissioner must decide whether on the balance of probabilities a public authority holds any - or additional - information which falls within the scope of the request (or was held at the time of the request).

The Commissioner's investigation

12. The Commissioner is aware that the Council has provided the following explanations as part of its internal review outcome:

- In respect of part 1 of the request (which seeks any assessments or recordings of 'decible levels' of noise recorded at the complainant's property during the building works), the Council has stated that it has consulted with involved officers in the Neighbourhood Enforcement Team, who have confirmed that no readings of decible levels were taken in the two visits they undertook, nor any further monitoring undertaken.
 - In respect of part 2 of the request (which seeks any relevant 'health and safety reports' for the works), the Council has stated that the former officer responsible for that work has since left the Council, and that whilst a 'risk assessment and method statement' may have been recorded by that officer, the Council has not been able to identify any copy still held. This has been established by a search by the Council's IT staff of the archived system and email account used by the former officer.
 - In respect of part 3 of the request (which seeks any records of 'checks after completions' for the works), the Council has consulted with officers in the Growth and Regeneration department, who have confirmed that they have not identified any reports relating to this. The Council has explained that, whilst officers attended the site on 21 October, they have not been notified of any issues (such as sinking or flooding) that would require a further visit.
13. The Commissioner considers that the Council has provided a clear and cogent account of the steps it has taken to establish if any recorded information is held.
14. No evidence has been submitted by the complainant that suggests that the steps undertaken by the Council in respect of this request have been deficient. Whilst the Commissioner recognises the complainant's dissatisfaction that information may have originally been held but since lost, the EIR only relates to that information which is held at the time of the request.
15. Having considered the above, the Commissioner has concluded that, on the balance of probabilities, no information is held.

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

Daniel Perry
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