

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 September 2022

Public Authority: Rhondda Cynon Taf County Borough Council

Address: The Pavilions
Cambrian Park
Clydach Vales
Tonypany
Rhondda Cynon Taf
CF40 2XX

Decision (including any steps ordered)

1. The complainant requested information from Rhondda Cynon Taf County Borough Council ("the Council") relating to spray records for the treatment of Japanese Knotweed. By the date of this notice, the Council had not issued a substantive response to this request.
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 EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under 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 18 July 2022, the complainant made the following request for information to the Council:

"Thank you for your reply dated 20 May 2022. I see in your reply that you asked me to make a complaint if I am still dissatisfied?

Firstly I need to ask you for some information pertinent to your last email and my request regarding 'spray records'.

[...]

List of questions and requests from myself that I expect to be responded to by RCTC:

1. You stated in your last email that for 'For the service commissioned by the Council [COMPANY REDACTED] does not need to retain the records' apparently [COMPANY REDACTED] has told you this point or is this RCTC opinion?

Answer

2. Supply me with all emails regarding /relevant to my issue of the 'spray records' between all officers of RCTC involved and [COMPANY REDACTED] including the legal dept of RCTC working back to August 2021?

Answer

3. Supply me with all internal emails concerning my issue of the 'spray records' since my initial query back in August 2021 between all officers of RCTC involved working back to August 2021?

Answer

4. All emails between all officers of RCTC and [COMPANY REDACTED] regarding/relevant to the 'Service Commissioned' that was discussed/agreed upon (personal information and prices redacted) for the past 3 years working back from 2021 including any emails with RCTC legal dept and [COMPANY REDACTED]?

Answer

5. A copy of the final contact/s (not draughts) regarding the commissioned work. Please redact personal information and any discussion of prices (££) for the past 3 years working back from

2021?

Answer

6. I would now like the 'spray records' for all the boroughs of RCT for the past 3 years working back from when the commissioned work started July/August? 2021 from [COMPANY REDACTED], if they have been contracted with RCTC for the spraying of Japanese Knotweed for the past 3 years, if not then any other contractor who was asked to commission the work for the previous 2 years 2020/2019 along with the contractor details?

Answer

7. Also can you explain to me if RCTC is excused from following the legislation in the Plant Protection Product Regulation 1107/2009 which states quite clearly regarding Record Keeping which are to be made available to residents etc?

Answer

8. Are RCTC a competent authority?

Answer

9. Can you please explain to the residents of Cwmbach the inconsistencies between the legislation, yourself [NAME REDACTED] and [COMPANY REDACTED] regarding the keeping of the spray records?

Answer

10. Why is our authority RCTCBC doing business with accompany that appears to not observe the legislation set out by law in the 'Plant Protection Product Regulations 1107/2009' Are these the standards we must accept from contractors who seem to ignore the legislation?

Answer"

6. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 18 August 2022 to complain about the Council's failure to respond to this request.

8. The Commissioner contacted the Council on 19 August 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Council has failed to respond to the complainant.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

11. Regulation 5(1) of the EIR 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. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the Council 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.

Right of appeal

14. 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

15. 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.
16. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF