

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 19 December 2022

Public Authority: Lincolnshire County Council
Address: County Offices
Newland
Lincoln
Lincolnshire
LN1 1YL

Decision (including any steps ordered)

1. The complainant requested information relating to an arrangement between Lincolnshire County Council (the Council) and a haulage company transporting waste on behalf of the Council.
2. The Council provided some information in response to all four parts of the request; however, the complainant believes additional information is held by the Council that relates to the third part of their request.
3. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any additional information relevant to the third part of the request.
4. However, as the Council failed to provide the information that it did hold within 20 working days, the Commissioner has found a breach of regulation 5(2) of the EIR.
5. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

6. The request under consideration relates to a transport route agreed between the council and a haulage operator. The complainant had previously been communicating with the council about the matter, and had also submitted a request for information.
7. As the complainant was not satisfied with the council's response to their information request, on 20 July 2022 they submitted a further request for the information which they believed to remain outstanding. This was as follows:

"It was agreed that a review would be conducted with the haulier. Please can the following questions be answered regarding this review:
a) when the review took place
b) who was involved in the process
c) what criteria were used to arrive at the decision that the current arrangement is satisfactory
d) who, within LCC, has responded to previous query raised"
8. Following the Commissioner's intervention, on 16 September 2022, the council provided the complainant with some information relevant to all four parts of their request.
9. At the internal review stage, the council then provided some additional information and/or explanations to the complainant in response to each part of the request.

Scope of the case

10. Following receipt of the council's internal review decision, the complainant submitted a new complaint to the Commissioner; this relates solely to the council's response to part c) of their request.
11. The complainant, in their various communications to the Commissioner, has also raised concerns about the timeliness of the council's response to their request.
12. The Commissioner therefore intends to make a decision on the following:
 - Whether the council has provided all the information held that is relevant to part c) of the complainant's request.
 - The timeliness of the council's response to the complainant.

Reasons for decision

13. The council's correspondence of 16 September 2022, included the following information in response to part c) of the request:

"The criteria for the current route was based upon: distance – number of miles, the available routes that were not covered by restrictions to HGVs, and minimisation of travel distance/times to minimise carbon emissions."
14. The council's internal review response then provided some additional information in response to part c) of the request as follows:

"The Head of Waste Service, [name redacted] had a telephone conversation with the Local Highways Manager responsible for the area to establish if there was a reason that HGVs were not allowed to use the route such as Traffic Regulation Orders. The Local Highways Manager verbally confirmed that there no such restrictions on the route to prohibit HGVs. The route was therefore selected and approved [name redacted] as it was deemed to be the shortest appropriate route."
15. The complainant has said that the council should provide further explanation of what is meant by the term 'appropriate' in its consideration of the criteria used for deciding the route selected, but has refused to do so.
16. The council has explained that, with regard to the criteria used to assess the route, once the agreement was in place with the haulier, verbal discussions took place on the telephone, firstly with the highways services to check for the traffic regulation orders, and then with the haulier to agree on the route. The council states that it is not required to hold records of these calls, and does not hold any additional information that would fall within the scope of part c) of the complainant's request.
17. Having considered the information available, the Commissioner is satisfied that there is no evidence which would indicate further information is held by the council that relates to part c) of the request.
18. Therefore, it is the Commissioner's decision that, on the balance of probabilities, the council has provided all the information that it holds that is relevant to part c) of the complainant's request.
19. However, as the council failed respond to the complainant's request within 20 working days, the Commissioner has found a breach of regulation 5(2) of the EIR.

Right of appeal

20. 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

21. 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.
22. 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
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF