

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 7 December 2022

Public Authority: Lancashire County Council

Address: County Hall
Fishergate
Preston
Lancashire
PR1 8XJ

Decision (including any steps ordered)

1. The complainant requested information from Lancashire County Council (the Council) relating to an adoption agreement about when Clifton Square was adopted by the Council. 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 4 September 2022, the complainant made the following request for information to the Council:
 1. "Please provide a coloured copy of the plan of the stopping up order and the plan on the adoption agreement entered into when Clifton Square was adopted by Lancashire County Council ("LCC"). Please provide the date that this was entered into.
 2. Who were the owners of bog island and the former highways Clifton Square and Dicconson Terrace that enabled adoption?
 3. Please provide coloured copies of all agreements, licences and other documentation entered into by LCC or the predecessor highway authority of the land hatched black on the plan annexed to the email sending this letter.
 4. Please confirm that the land hatched black has not at any time been the subject of an adoption agreement or a stopping up order. If please supply dates and coloured plans." (sic)
6. The Council acknowledged the request on 5 September 2022. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 7 November 2022 to complain about the Council's failure to respond to this request.
8. The Commissioner contacted the Council on 17 November 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF