

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 13 June 2022

Public Authority: Winster Parish Council
Address: Ivy Dene
Main Street
Birchover
Derbyshire
DE4 2BN

Decision

1. The complainant requested information from Winster Parish Council ("the Council") relating to the cutting and collection of arisings from Winster Common.
2. The Commissioner's decision is that the request should have been handled under the Environmental Information Regulations 2004 (EIR) rather than the Freedom of Information Act 2000 (FOIA).
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request 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 Act and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following information request to the Council on 7 August 2021:

"I am writing to you under the Freedom of Information Act 2000 to request the following information from Winster Parish Council:

1. The specification for the cutting and collection of arisings off Winster Common August 2021
 2. Plans and drawings to support the specification
 3. Advert for the invitation to tender/quote for works in 1 above
 4. Copies of all tenders/quotes received
 5. Risk assessment for works in 1 above
 6. Copy of official order/instruction to procure works in 1 above, including confirmation of price
 7. Copies of all emails (including all those held on personal devices in the name of Winster Parish Council), memos, correspondence and notes regarding procurement of 1 above
 8. Copies of all emails (including all those held on personal devices in the name of Winster Parish Council), memos, correspondence and notes received since 1st July 2021 regarding complaints from members of the public regarding the state of Winster Common and responses."
6. The Council refused to provide the requested information citing section 14(1) (vexatious request) of the FOIA as its basis for doing so.

Reasons for decision

7. This reasoning covers whether the Council was correct to handle the request under the FOIA rather than the EIR.
8. The complainant requested information relating to the cutting and collection of arisings from Winster Common. The Commissioner considers the information to be environmental as it falls within the definition of environmental information provided at regulation 2(1)(c) of the EIR, "activities affecting or likely to affect the elements and factors referred to in (a) and (b)".

9. The Commissioner's decision is that the Council did not handle the request under the correct legislation as the requested information is environmental. Therefore, the Council should have considered the request under the EIR rather than the FOIA. The Commissioner requires the Council to provide the complainant with a fresh response to the request under the EIR.

Right of appeal

10. 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: 0300 1234504

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

11. 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.
12. 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