

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 8 February 2022

Public Authority: Westminster City Council
Address: Westminster City Hall
64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant requested information from Westminster City Council ("the Council") about the way the Council had made a decision about a sound recording relating to a noise complaint. 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 breached regulations 5(2) of the EIR in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
 3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under the EIR.
 4. The Council must take this step 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.
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Request and response

5. On 23 June 2021, the complainant wrote to the Council and requested information in the following terms:

"[...]and to ask you the following questions under the freedom of information act 2000 ,

if you don't mind please :

1-have you listened yourself to the recordings ?

2-are you yourself qualified as such ?

3-how did you come to the conclusion you provided me with yesterday?

4-How does all this noise nuisance I am being subjected to does not constitute noise nuisance or antisocial behaviour or even harassment !?

[...]

5-[...] was it the same recording I recorded and witnessed between 15th and 27th May ?

My following question to you is:

6-How is it possible that noise nuisance in other premises around the borough of Westminster in London were being investigated by your noise team during that same period and I , myself was being still denied the service, under the pretext above mentioned , why was it not pursued as it should have !?"

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

Scope of the case

7. The complainant contacted the Commissioner on 30 June 2021 to complain about the Council's failure to respond to their EIR request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

Reasons for decision

9. Regulation 5(1) of the EIR states that: "a public authority that holds environmental information shall make it available on request."
10. 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."
11. On 14 January 2022 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention the Council has failed to respond to the complainant.
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 finds 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