

**Freedom of Information Act 2000 (Section 50)
and
The Environmental Information Regulations 2004.**

Decision Notice

Date: 22 November 2010

Public Authority: Wirral Metropolitan Borough Council
Address: Town Hall
Brighton Street
Wallasey
Wirral
CH44 8ED

Summary

The complainant submitted a request to Wirral Metropolitan Borough Council ('the Council') for access to information necessary to complete various questions on the CON29R form in relation to a property in Wallasey. The complainant specified that he wished to view the records in person. The Council agreed to provide the information requested but only on the provision of a set fee. The Commissioner's decision is that the Council failed to comply with regulations 5(1) as it failed to make some of the information available on request and 5(2) as it failed to make it available within the statutory time for compliance. The Commissioner also found that the Council breached regulation 6(1) by failing to comply with the complainant's request to make the information available in a particular format, specifically inspection. The Commissioner requires the Council to make the outstanding requested information available for the complainant to inspect within 35 days of this notice.

The Commissioner's Role

1. The Environmental Information Regulations (The Regulations) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that The Regulations shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the

enforcement provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into The Regulations.

Background

2. Section 3 of the Local Land Charges Act 1975 compels all local authorities to generate, maintain and update a Local Land Charges Register. In order to obtain information from a local search, an application for an Official Search must be submitted to the relevant Local Authority on form LLC1. This is usually accompanied by form CON29R.
3. The CON29R form is comprised of two parts. Part 1 contains a list of standard enquiries about a property. Optional enquiries are contained in Part 2.
4. When a property or piece of land is purchased or leased, a request for a search is sent to the relevant local authority.
5. The complainant represents a company which provides information about property and land issues.

The Request

6. On 19 February 2009 the complainant requested the information necessary to answer the following questions on the CON29R form: 1.1 (f) – (h), 3.4, 3.6 and 3.9.¹

The complainant requested this information in relation to a specific named property, and specified that he wished to inspect these records in person.

7. On 4 March 2009, the complainant wrote to the Council to enquire when he might receive a response to this request, and to submit a request for an internal review.
8. On 13 March 2009, the Council responded to the complainant. The Council stated that information relating to questions 1.1(f), (g) and (h) was not held in any public register of information, but would be

¹ Annex A lists these CON29R enquiries

- provided if a set charge was paid. The Council also stated that information relevant to points 3.4, 3.6 and 3.9 would only be provided on receipt of a CON29R request with the associated fee of £60, but that this information would be provided free of charge from April 2009.
9. On 19 March 2009, the complainant wrote to the Council to express his dissatisfaction with the Council's response to his request. The complainant asked that the Council reconsider its response to his request.
 10. On 20 April 2009, the Council communicated the outcome of its internal review to the complainant. The Council stated that it did not accept that all information relevant to the CON29 form was environmental information. It also stated that it did not accept that Regulation 8(2) of the EIR compelled it to allow the complainant to inspect the information free of charge. The Council considered that Regulation 8(3) allowed it to impose a reasonable charge for providing the requested information to the complainant.

The Investigation

Scope of the case

11. On 22 September 2009, the complainant contacted the Commissioner to make a valid complaint about the Council's compliance with the provisions of the EIR.
12. The Council has confirmed that information relevant to CON29R queries 3.4, 3.6 and 3.9(a)-(l) and (n) is publicly available free of charge. This is also set out in the Council's published list of charges for CON29R information. The Commissioner has therefore excluded these parts of the request from the scope of the decision notice. The remaining information is CON29R queries 1.1(f)-(h) and 3.9(m).

Chronology

13. On 7 October 2009 the Commissioner wrote to the Council to inform it that he had received a complaint regarding the way it had dealt with this request.
14. On 13 October 2009 the Commissioner telephoned the Council to ask if it could clarify its position on responding to property search requests under the EIR. The Council explained that it was unwilling to do so over the telephone as the policy might be misconstrued. On the same day,

- the Commissioner wrote to the Council to ask that it explained why it had refused to provide the requested information for inspection free of charge. He also drew the Council's attention to the decision notice issued against East Riding of Yorkshire Council ('the East Riding Decision Notice') in a similar matter.
15. On 20 October 2009, the Commissioner wrote to the Council to outline the specific details of the complaint.
 16. On 10 November 2009 the Council wrote to the Commissioner. The Council stated that the information requested in questions 3.4 and 3.6 of the CON29R was in fact provided to the complainant free of charge, as well as some of the information relevant to CON29R query 3.9. The Council however stated that a fee of £12.50 was levied for providing information relevant to CON29R queries 1.1(f)-(h). The Council also disputed the Commissioner's interpretation of regulation 6(1) in the East Riding Decision Notice and provided arguments to support this. The Council also informed the Commissioner that the complainant had previously brought a claim in the County Court regarding charges levied under the EIR. The Council enclosed a copy of its skeleton argument submitted in this case for the Commissioner to consider, along with a statement made to the Court by the Council's Assistant Director (Building Control).
 17. On 21 December 2009 the Commissioner wrote to the Council to explain that the East Riding Decision Notice had been appealed by the Council to the Information Tribunal.² A full hearing for the case was scheduled for 11 January 2010. As the East Riding Decision Notice addressed very similar issues to those raised in the complaint against the Council, the Commissioner and the Council agreed to await the Tribunal decision before the Commissioner continued investigating the case. The Commissioner emailed the Council on the same day to confirm this arrangement.
 18. On 15 March 2010 the First Tier (Information Rights) Tribunal promulgated its decision on the appeal submitted by East Riding of Yorkshire Council against the Decision Notice ('the Tribunal Decision'). The Tribunal dismissed the appeal. However the Tribunal made clear that although East Riding of Yorkshire Council could not demonstrate that it was reasonable to provide information in a format other than inspection, this did not mean other public authorities would not be able to do so.

² Prior to 17 January 2010, the First Tier (Information Rights) Tribunal was known as the Information Tribunal.

19. On 8 April 2010, the Commissioner wrote to the Council to draw its attention to the Tribunal decision. In light of the Tribunal's findings, the Commissioner asked that the Council reconsider its original response to the complainant's request.
20. On 5 May 2010, the Council wrote to the Commissioner to explain that it still did not accept the Commissioner's interpretation of regulation 6(1). The Council also drew the Commissioner's attention to the case of R –v- York City Council ex parte OneSearch Direct Holdings Ltd (2010) EWHC 590 (Admin) ('the High Court decision') which it argued supported its decision not to make the requested information available for inspection free of charge.
21. On 20 August 2010 the Commissioner wrote to the Council to set out his opinion on access to property search information under the EIR as set out in several Decision Notices issued since the promulgation of the Tribunal Decision. The Commissioner also drew the Council's attention to the new arrangements in relation to the Local Land Charges Register brought about as a result of the Local Land Charges (Amendment) Rules 2010. This amendment was published on 29 July 2010, and revokes the set fee of £22 charged for inspection of the Land Charges Register. The amendment came into force on 17 August 2010. The Commissioner asked the Council to confirm whether it had ceased to charge for personal inspections of the Local Land Charges Register in light of this new amendment. The Commissioner also drew the Council's attention to the explanatory memorandum that accompanied this amendment which explained that it had been introduced to resolve the contradiction between the EIR and the Local Land Charges Rules. The Commissioner explained that he considered that it supported his view that the EIR also took precedence over the Local Authorities (England) (Charges for Property Searches) Regulations 2008 ('the CPSR') and asked that the Council reconsider its response to the complainant's request on this basis.
22. On 23 August 2010 the Council wrote to the Commissioner to point out that although it had ceased to charge for allowing inspections of the Local Land Charges Register, this did not in fact form part of the complainant's original request. The Council confirmed that a charge was imposed to allow access to building control information (information relevant to CON29R queries 1.1(f)-(h).
23. On 31 August 2010 the Commissioner wrote to the Council to ask if it could clarify whether the complainant did in fact receive information in response to this request as the complainant had explained that he did not. The Commissioner also asked that Council confirm what CON29R information was available for inspection and the fees charged for this.

24. On 4 November 2010 the Commissioner again contacted the Council to ask if it would like to provide any evidence to support its position that the complainant had in fact received the requested information as a result of his request of 19 February 2009.
25. On 10 November 2010 the Council emailed the Commissioner to state that it had located evidence that supported its position that the requested information was in fact provided to the complainant through its chargeable procedures.
26. On 15 November 2010 the Commissioner wrote to the Council to ask that it provided this evidence. On 18 November 2010, the Council provided the Commissioner with a list of personal searches conducted by the complainant and a receipt for payment.

Analysis

Substantive Procedural Matters

Regulation 2

27. The Commissioner has considered whether the information requested by the complainant is environmental information as defined by the EIR.
28. The Commissioner considers that the information requested falls within regulation 2(1)(c): "measures (including administrative measure), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect these elements". Information about a plan or a measure or an activity that affects or is likely to affect the elements of the environment is environmental information. The Commissioner therefore considers the information requested by the complainant to be environmental information.

The High Court decision

29. The Council has explained that it believes the High Court decision provides support for its decision to levy a charge for the requested information.
30. The High Court decision found that whilst the Local Government Act 1972 permits public authorities to allow access to their property search

records, it does not compel them to do so. Additionally, the court found that the CPSR do not create any obligation to allow searches of property information. Therefore, the High Court found that York City Council's policy of refusing to provide access to some property search information was lawful.

31. The Commissioner accepts that if a decision of the High Court addressed the same issues as a decision of the First Tier Tribunal, the High Court decision would take precedence. However, the High Court decision in the case of *Onesearch v York City Council* did not address or make any comment on access to the information requested under the provisions of the EIR, and is therefore irrelevant to this complaint. The Commissioner is of the opinion that only the contents of the promulgated High Court decision can be taken into account. The decision did not consider access to the requested information under the EIR.
32. The Commissioner also finds that the High Court decision does not in any case contradict the steps he has required public authorities to take in previously issued Decision Notices, or the decision of the Information Tribunal in the case of *East Riding v Information Commissioner*.

Regulation 5

33. Regulation 5(1) provides that environmental information shall be made available upon request. Regulation 5(2) provides that this information should be made available within 20 working days following receipt of the request. The complainant's original request for information was made on 19 February 2009.
34. The Council states that the complainant was provided information relevant to queries 1.1(f)-(h) of the CON29R form but that a fee of £12.50 was charged for this. The complaint however argues that although he had previously received the requested information for a fee as part of the Council's official search procedure, he has paid no fee and consequently received no information in response to his EIR request of 19 February 2009. The Council has provided the Commissioner with a list of personal searches conducted by the complainant dated 26 February 2009. There are nine properties listed on this document including the property relevant to the request. The Council has also provided a receipt dated 26 February 2009 which records that the complainant submitted payment of £112.50 for "building control replies". Queries 1.1(f)-(h) of the CON29R form relate to building control information. The fee charged for each property is £12.50. The complainant paid a total of £112.50 to receive information on nine properties, which correlates to the list of nine searches carried

out on the same day. The Commissioner therefore accepts that on 26 February 2009, the complainant did receive CON29R information in relation to queries 1.1(f)-(h) upon provision of a fee. The Council has therefore complied with regulations 5(1) and 5(2) in relation to this information.

35. The Council has however not provided the complainant with information relevant to CON29R query 3.9(m). The Commissioner therefore finds that the Council has breached regulation 5(1) by failing to make information available upon request, and regulation 5(2) by failing to make information available within the statutory time for compliance.

Regulation 6

36. Regulation 6(1) provides an applicant with the right to request that information be made available in a particular form or format. It is the Commissioner's view that although regulation 6(1) may appear primarily to be concerned with the form or format information is provided in, it should be interpreted broadly and does provide a right to request the inspection of environmental information. A public authority should comply with this preference unless it is reasonable to make the information available in another format, or the information is already publicly available in another format.

Does inspection constitute a 'form or format' under regulation 6(1)?

37. The Council does not accept the Commissioner's interpretation of the EIR in relation to this point. During the course of the investigation, the Commissioner referred the Council to his Decision Notice in case FER0266521. This dealt with a request for similar information and details the Commissioner's rationale for deciding that inspection constitutes a 'form or format' (paragraph 16).
38. The Council disagrees that inspection constitutes a 'form or format'. In support of this position, the Council argues that "the natural meaning" a particular form or format refers to is a particular physical form or arrangement – for example, a paper copy, an electronic version, or a summary of requested information. The Council states that if inspection was intended to be considered as a format under regulation 6(1), the EIR would have been drafted differently so that this was made clear.
39. In his Decision Notice FER0266521, the Commissioner states that analysis of the Directive supports his interpretation that inspection constitutes a 'form or format' (para 16). The Council however disputes

this and argues that if the Directive intended to create a right of inspection, “one would have expected an express provision to that effect...in either regulation 4.. or regulation 5”.

40. The Council also refers to Article 3(5) of the Directive. This introduces the requirements for arrangements to be made which ensures that the right of accessing information “can be exercised effectively, such as... establishment and maintenance of facilities for the examination of the information required”. The Council argues that this is merely an example of how the right to access environmental information can be exercised, and contends that if a duty to allow inspection was imposed, the Directive would have used the phrase “which shall include” rather than “such as”. The Council also points out that Recital (15) of the Directive does not include facilities for personal inspection in the lists of practical arrangements it suggests that member states should make for allowing access to environmental information.
41. In decision notice FER0266521, the Commissioner also refers to the implementation guide to the Aarhus convention to support his view that inspection constitutes a ‘form or format’ under regulation 6(1) of the EIR. The Council however points out that this international treaty imposes no obligations on a public authority in domestic or European law.
42. The Commissioner notes the Council’s comments that if inspection were a ‘form or format’, this would have been expressly stated in the EIR and the supporting legislation. However, the Commissioner’s opinion, based on the actual content of the legislation, is that inspection constitutes a form or format under regulation 6(1).
43. The Council also argues that the Tribunal decision supports its view that regulation 8(2)(b) does not impose a duty on a public authority to make information available for inspection. At paragraph 36 of its decision, the Tribunal commented that:

“...regulation 6 providing detail about how access may be provided (i.e. in accordance with the requesting party’s preference, unless it is reasonable to provide it in some other form) and regulation 8 setting out the circumstances when a charge may be made. We think that it is clear that, in that context, regulation 8(2) does not create a separate obligation to permit inspection, but simply provides that, where the person making the request asks for the information to be made available by inspection then, unless the public authority has the right under regulation 6 to override that preference and to make the

information available in the form of a copy, it may not make any charge”

44. The Commissioner accepts that regulation 8(2)(b) does not create a *separate* obligation to permit inspection. However, he interprets the Tribunal’s comment to support the view that inspection is a valid form or format under regulation 6.
45. The Council also refers to section 91A of the Building Act 1984. This section enables the Secretary of State to produce regulations compelling public authorities to maintain registers of information relating to building regulations for public inspection. Section 91A came into force in 2006 and it is the Council’s contention that the provision would not have been introduced if the right to inspect this information was already afforded under the EIR.
46. The Council has not disputed that the requested information is environmental in nature, and as such, it should be considered for disclosure under the EIR. The EIR applies to all environmental information and so no exception is applied to building regulation information by the specific piece of legislation referred to by the Council. The Commissioner’s view is therefore that this does not affect the rights of access to information provided by the EIR. He also notes that as yet, the Secretary of State has issued no regulations that allow an alternative right of access to inspect building regulation information.
47. The Commissioner therefore maintains his view that inspection is a ‘form or format’ under regulation 6(1). The Council is obliged to consider whether it can give effect to the complainant’s request to receive information in his preferred format of inspection.

Regulation 6(1)(a)

48. The Council does not accept the Commissioner’s interpretation that regulation 6(1) provides the applicant with a right to request to inspect information. However, whilst the Council did not specifically cite regulation 6(1)(a) it has provided the Commissioner with a copy of statement made to the County Court by its Assistant Director (Building Control). This details why it would be impractical for the Council to allow inspection of the requested information. Regulation 6(1)(a), which provides an exemption from complying with a preference for providing information in a particular form if it is reasonable to make the information available in another form. The Commissioner has therefore considered the arguments in the Council’s statement to the County Court under regulation 6(1)(a).

49. The Council submitted arguments explaining how its property search services are structured and details of why it feels that it would be reasonable to provide the requested information in another format. In assessing these arguments, the Commissioner has referred to the Tribunal decision in East Riding of Yorkshire Council v Information Commissioner (EA/2009/0069). East Riding Council had also relied on 6(1)(a). The Tribunal found that East Riding Council did not provide adequate arguments to support this position, but stressed that another public authority may be able to demonstrate that it is reasonable to provide information of this nature in a format other than inspection (paragraph 40).
50. The Council states that information relating to building regulation approval (relevant to CON29R query 1.1(f)) is held in a private computer system. This GIS system also includes information that constitutes the personal data of other individuals; for example, details of aggressive behaviour by applicants and private telephone numbers.
51. The Council also explains that it did not issue Completion certificates (relevant to CON29R query 1.1(g)) prior to June 1992. Prior to April 2000, Completion certificates were only issued for new build dwellings and only upon request. These certificates are not held electronically but in paper files which also contain personal information. The Council also points out that Council staff need to inspect this information in order to ascertain whether work was carried out correctly. The Council also states that whilst information about competent person self-certification schemes is held electronically it often needs to be interpreted by Council staff.
52. The Commissioner does not accept that the Council has demonstrated that it would be reasonable to make the requested information relevant to the specific property available in another format. The Commissioner notes that the Council has submitted no arguments to explain why it is unable to print or photocopy documents, redact information as necessary, and provide these to the complainant to inspect. This presents an alternative method of inspection than allowing the complainant to access computer systems. In previous Decision Notices, such as FER0288726 and FER0308439, the Commissioner has concluded that if a public authority allowed an applicant to inspect printed or photocopied documents, this would satisfy a complainant's request to inspect the requested information. This has meant that public authorities are able to comply with regulation 6(1) as providing information in this way alleviates potential difficulties. For example, personal information can be redacted from copied documents before being provided to applicants. Providing hard copies for inspection also ensures the integrity of a public authority's electronic records, and

means that members of the public do not necessarily have to be given access to back-office areas.

53. The Commissioner also notes that the Council has argued that some of the information needs to be interpreted by Council staff in order to provide an answer to CON29R information. The Council is only required to consider the recorded information it holds for disclosure.

Regulation 6(1)(b)

54. Regulation 6(1)(b) provides that a public authority is not obliged to comply with a preference to receive information in a particular form if the information is already publicly available and easily accessible in another form. In a letter to the complainant of 24 April 2009, the Council affirmed that the information requested was available and accessible through a local land charges search or a personal search of the Council's public registers. The Council did not specifically cite regulation 6(1)(b), but the Commissioner has addressed this issue here for clarity.
55. The Council suggest that the fact a fee was payable for these methods of accessing the information did not mean the information was any less available. In the Commissioner's view, however, the criteria of information being publicly available and easily accessible is not satisfied when an applicant is required to pay a fee. This is because charging acts as a barrier to the information being easily accessible in contrast to, for example, publication on a website or in a public library free of charge. The Commissioner would therefore consider that the exception contained in regulation 6(1)(b) is not relevant in this case.
56. Since neither of the exceptions to the obligation to provide information in a preferred form or format are satisfied, the Commissioner concludes that the Council has breached regulation 6(1) and the complainant is entitled to inspect the requested information.

Regulation 8

Regulation 8(2)

57. Regulation 8 provides a general right for public authorities to charge for making information available. However, that right is subject to a number of conditions. The relevant conditions in this case are set out in regulation 8(2).
58. Regulation 8(2)(a) states that a public authority shall not make any charge for allowing an applicant to access any public registers or lists

of environmental information, and regulation 8(2)(b) states that a public authority shall not make any charge for allowing an applicant to examine the information requested at a place which the authority makes available.

59. The Council argued that it was entitled to levy a reasonable charge for providing the requested information in line with regulation 8(3). As the Council did not accept that it was compelled to allow inspection of the requested information, it did not submit detailed arguments relating to regulation 8(2)(b), apart from referring again to the implications of section 91A of the Building Act 1984. This section allows the Secretary of State to make regulations that would allow inspection free of charge of the requested information, and the Council contend that section 8(2)(b) is therefore irrelevant. The Commissioner rejects this argument for the reasons set out in paragraph 46.
60. Regulation 5(6) of the Environmental Information Regulations 2004 (EIR), provides that "any enactment or rule of law that would prevent disclosure of information in accordance with these regulations shall not apply". It is the Council's position that the charging provisions of the CPSR apply to the requested information. However, the Commissioner's position is that regulation 5(6) specifically disapplies the CPSR.
61. Consequently, the Commissioner considers that if the property records comprise environmental information as defined by regulation 2 of the EIR the CPSR cannot be used as the basis for charging and the Council must adopt the charging provisions of the EIR. The Council has not disputed that this property information is environmental. Therefore, despite the provisions of the CPSR, the information should be considered for disclosure under the EIR. For the reasons set out above, the Commissioner considers that the EIR entitle the complainant to request to inspect the requested information free of charge, and the CPSR cannot apply. This position also acknowledges the primacy of EU legislation whereby European law, such as the EIR, takes precedence over domestic law.
62. The Commissioner has concluded that the complainant is entitled to inspect the requested information. In accordance with regulation 8(2)(b), a charge cannot be levied for this.

Regulation 8(3)

63. The Council submits that the charges levied for the provision of the requested information are reasonable under regulation 8(3). However, the Commissioner is of the opinion that where information is available

for inspection, regulation 8(2)(b) conclusively prevents *any* charge from being levied to provide the requested information. As he has found that the Council should allow the complainant to inspect the requested information, the Commissioner has not gone onto consider the Council's arguments around the interpretation and provisions of what constitutes a 'reasonable' charge under regulation 8(3).

The Decision

64. The Commissioner's decision is that Wirral Metropolitan Borough Council did not deal with the request for information in accordance with the EIR. The Council has breached regulation 5(1) by failing to make information relevant to CON29R query 3.9(m) available upon request and regulation 5(2) by failing to make the requested information available within the statutory time for compliance. The Council has also breached regulation 6(1) by failing to comply with the complainant's request to inspect the requested information.

Steps Required

65. The Commissioner notes that the complainant has received most of the information he requested, for which he paid a fee. The commissioner does not therefore need to order the same information to be made available again. However, the Commissioner requires that the Council make the outstanding requested information available for the complainant to inspect free of charge.
66. The public authority must take the steps required by this notice within 35 calendar days of the date of this notice.

Failure to comply

67. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

68. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

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.

Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 22nd day of November 2010

Signed

**Gerrard Tracey
Principal Policy Adviser**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Legal Annex

Regulation 2 - Interpretation

Regulation 2(1) In these Regulations –

“the Act” means the Freedom of Information Act 2000(c);

“applicant”, in relation to a request for environmental information, means the person who made the request;

“appropriate record authority”, in relation to a transferred public record, has the same meaning as in section 15(5) of the Act;

“the Commissioner” means the Information Commissioner;

“the Directive” means Council Directive 2003/4/EC(d) on public access to environmental information and repealing Council Directive 90/313/EEC;

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

- (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

Regulation 5 - Duty to make available environmental information on request

Regulation 5(1) Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

Regulation 5(2) 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.

Regulation 6 - Form and format of information

Regulation 6(1) Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless –

- (a) it is reasonable for it to make the information available in another form or format; or
- (b) the information is already publicly available and easily accessible to the applicant in another form or format.

Regulation 8 - Charging

Regulation 8(1) Subject to paragraphs (2) to (8), where the public authority makes environmental information available in accordance with regulation 5(1) the authority may charge the applicant for making the information available.

Regulation 8(2) A public authority shall not make any charge for allowing an applicant –

- (a) to access any public registers or lists of environmental information held by the public authority; or
- (b) to examine the information requested at the place which the public authority makes available for the examination.

Annex A - CON29R Enquiries

1.1 Which of the following relating to the property have been granted, issued or refused or (where applicable) are the subject of pending applications:

- f) building regulations approval
- g) a building regulations completion certificate
- h) any building regulations certificate or notice issued in respect of work carried out under a competent person self-certification scheme

3.4 Is the property (or will it be) within 200 metres of any of the following:

- a) the centre line of a new trunk road or special road specified in any order draft order or scheme
- b) the centre line of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway
- c) the outer limits of construction works for a proposed alteration or improvement to an existing road involving (i) construction of a roundabout (other than a mini roundabout) or (ii) widening by construction of one or more additional traffic lanes
- d) the outer limits of (i) construction of a new road to be built by a local authority, (ii) an approved alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway or (iii) construction of a roundabout (other than a mini roundabout) or widening by construction of one or more additional traffic lanes
- e) the centre line of the proposed route of a new road under proposals published for public consultation
- f) the outer limits of (i) construction of a proposed alteration or improvement to an existing road involving construction of a subway, underpass, flyover, footbridge, elevated road or dual carriageway or (ii) construction of a roundabout (other than a mini roundabout) or (iii) widening by construction of one or more additional traffic lanes under proposals published for public consultation.

3.6 Has a local authority approved but not yet implemented any of the following for the roads, footways and footpaths which abut the boundaries of the property:

- a) permanent stopping up or diversion
- b) waiting or loading restrictions
- c) one way driving
- d) prohibition of driving

- e) pedestrianisation
- f) vehicle width or weight restrictions
- g) traffic calming works including road humps
- h) residents parking contracts
- i) minor road widening or improvement
- j) pedestrian crossings
- k) cycle tracks
- l) bridge building

3.9 Do any of the following subsist in relation to the property or has a local authority decided to issue, serve, make or commence any of the following:

- a) an enforcement notice
- b) a stop notice
- c) a listed building enforcement notice
- d) a breach of condition notice
- e) a planning contravention notice
- f) another notice relating to breach of planning control
- g) a listed buildings repair notice
- h) in the case of listed building deliberately allowed to fall into disrepair, a compulsory purchase order with a direction for minimum compensation
- i) a building preservation notice
- j) a direction restricting permitted development
- k) an order revoking or modifying planning permission
- l) an order requiring discontinuance of use or alteration or removal of building or works
- m) a tree preservation order
- n) proceeding to enforce a planning agreement or planning contribution