

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 21 November 2018

Public Authority: Ribble Valley Borough Council
Address: Council Offices
Church Walk
Clitheroe
Lancashire
BB7 2RA

Decision (including any steps ordered)

1. The complainant has requested all correspondence including minutes of meetings between the landowner and developer concerning the destruction of protected trees.
2. The Commissioner's decision is that the request should have been handled under the Environmental Information Regulations ("the EIR") as opposed to the Freedom of Information Act ("the FOIA").
3. During the course of the Commissioner's investigation, the Council responded to the request for information 33 working days after it was made. As such, the Council has breached Regulation 5(2) of the EIR.
4. As a response has now been provided, the Commissioner does not require any further steps to be taken.

Request and response

5. On 27 August 2018, the complainant wrote to the Council and requested information in the following terms:

"All correspondence including minutes of meetings between the landowner and developer

Dear Ribble Valley Borough Council,

I would be grateful if you could provide the above information concerning the destruction of protected trees by the landowner [name and address redacted] and Reilly Developments Ltd. (Planning Application No 3/2018/0500 refers)

Thank you."

6. The Council acknowledged the request on 28 August 2018, then contacted the complainant on 26 September 2018 regarding a separate complaint and stated that it had "... *also asked the Complaints Officer to look into the FOI you mention*".
7. On 11 October 2018, the Council provided some information in response to the request saying that it had been "*dealt with under the terms of the Freedom of Information Act 2000*". This response did not disclose the minutes of meetings.

Scope of the case

8. The complainant contacted the Commissioner on 9 October 2018 to complain about the way his request for information had been handled.
9. In line with her usual practice, the Commissioner contacted the Council on 25 October 2018 to highlight the outstanding response and requested that the Council respond to the request within 10 working days. The Council acknowledged the contact and provided the information it had already sent to the complainant on 26 September and 11 October 2018.
10. The complainant contacted the Commissioner on 25 October 2018 to confirm that the Council had provided a response whilst noting the response was overdue.
11. The complainant contacted the Commissioner again on 30 October 2018 to say that, "*Whilst Ribble Valley has responded I think they need to be advised that an overdue of 14 working days is unacceptable and not in accordance with the law.*"
12. On 5 November 2018 the complainant confirmed his request for information was for the all the correspondence including minutes of meetings between the landowner and developer, and he had not received the minutes of meetings. However, this was resolved after an internal review where the council explained, to the requestor's satisfaction, why the minutes were not held.

13. The complainant contacted the Commissioner further to update her on the status of the request and to ask that a decision notice be served regarding the late response.
14. Therefore, the scope of the Commissioner's investigation and the following analysis is to determine whether the Council has complied with Regulation 5(2) of the EIR.

Reasons for decision

15. Regulation 2(1) of the EIR defines environmental information as being information on:
 - a) *the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;*
 - b) *factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);*
 - 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)...as well as measures or activities designed to protect those elements;*
 - d) *reports on the implementation of environmental legislation;*
 - e) *cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c).*
16. The Commissioner believes that the initial request made by the complainant is likely to be information about economic analyses of measures affecting the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.
17. Regulation 5(1) states that: "*a public authority that holds environmental information shall make it available on request.*"
18. Regulation 5(2) states that such information shall be made available "*as soon as possible and no later than 20 working days after the date of receipt of the request.*"

19. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
20. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached Regulation 5(2) of the EIR.
21. As the Council has now responded to the request, the Commissioner does not require it to take any further steps.

Right of appeal

22. 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: 0116 249 4253

Email: GRC@hmcts.gsi.gov.uk

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

23. 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.
24. 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

Andrew White
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Water Lane
Wilmslow
Cheshire
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