

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 6 August 2019

Public Authority: Debenham Parish Council

Address: debenham.pc@btinternet.com

Decision (including any steps ordered)

1. The complainant has requested information with regards to a named lane. The council initially refused to provide the information under section 43(2) of the Freedom of Information Act 2000 (the FOIA). During the Commissioner's investigation the council reconsidered the request under the EIR and subsequently provided the information.
2. The Commissioner's decision is that the council breached regulation 5(2) of the EIR as it provided the information outside the required 20 working days.
3. As the information has now been provided to the complainant, the Commissioner does not require the council to take any steps.

Request and response

4. On 12 November 2018 the complainant made the following request to the council:

"Under the Freedom of Information Act, please can you provide me with the following:

A copy of all the correspondence sent to SCC relating to [lane redacted] and the clarification of the highway."
5. The council responded on the 10 December 2018 refusing the request relying on section 43(2) of the FOIA as it considered release of the information would prejudice commercial interests.

6. The complainant requested an internal review on the 11 December 2018 and then contacted the Commissioner on the 24 January 2019 as she had not received a response to her internal review request.
7. The Commissioner contacted the council asking it to carry out an internal review which it did on the 22 January 2019 upholding its original response

Scope of the case

8. The complainant contacted the Commissioner further disputing the council's refusal of her request.
9. The Commissioner, during her initial investigations, advised the council that the information being requested appeared to be environmental information and should be considered under the EIR. The Commissioner asked the council to consider this as part of its response to her enquiries.
10. The council on re-considering the request under the EIR determined that the information should be released and provided it to the complainant on 9 July 2019 and re-sent it on the 22 July 2019 as the complainant did not receive the first copy.
11. The complainant has told the Commissioner that she is not satisfied with the time it has taken the council to provide her the requested information.
12. The Commissioner considers the scope of the case is to determine whether the council breached regulation 5(2) of the EIR – Time to respond.

Reasons for decision

Regulation 5(2) of the EIR – Time to respond

13. Regulation 5(1) requires a public authority to provide information it holds when requested. Regulation 5(2) of the EIR requires this information to be provided to the requestor within 20 working days following receipt of the request.
14. In this case, the complainant requested the information on the 12 November 2018 and the council did not provide the information it held until July 2019.

15. This is outside the required 20 working days and therefore the Commissioner finds that the council has breached regulation 5(2) of the EIR.
16. As the information has now been provided, the Commissioner does not require the council to take any steps.

Right of appeal

17. 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

18. 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.
19. 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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