

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

Date: 29 November 2022

Public Authority: London Borough of Croydon
Address: Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

Decision (including any steps ordered)

1. The complainant has requested information about a transport study.
2. The Commissioner's decision is that the above public authority ("the public authority") has failed to respond to the request within 20 working days and has therefore breached Regulation 5(2) of the Environmental Information Regulations.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the EIR, to the request.
4. The public authority 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 2 October 2022, the complainant wrote to the public authority and requested information in the following terms:

"At what I assume to be paragraph 5.23, the Officer Report on the above application (published 19 May 2022) states as follows:

'A Transport Study has been provided to address the issues in the Kenley Transport Study and how this development will affect the issues raised taking into account the traffic generation from this site and all committed developments in Kenley that will be using the roads within the study. This is acceptable in terms of impact on the issues raised in the study'.

"But I cannot see the 'Transport Study' referred to on the planning portal.

"+++ Please provide a copy of that Study and/or publish the Study on the website."

6. The public authority did not acknowledge the request and, despite prompting by the Commissioner, had failed to provide a substantive response by the date of this notice.

Reasons for decision

7. The Commissioner has not seen the requested information but, as it is information relating to a transport study carried out to inform planning applications, he believes that it is likely to be information on measures affecting the elements of the environment. For procedural reasons, he has therefore assessed this case under the EIR.
8. The Commissioner considers that the request in question constituted a valid request for information under the EIR. The public authority was therefore under a duty to respond to it within 20 working days.
9. 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 public authority has breached Regulation 5(2) of the EIR and must now issue an EIR-compliant response.

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: 0203 936 8963

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

Roger Cawthorne
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF