

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 9 December 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 requested information from the London Borough of Croydon (the Council) relating to the Council's Guidance on planning obligations. 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 failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The Council 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 3 October 2022, the complainant made the following request for information to the Council:

“Planning Guidance Note 1 - Planning Obligations (PGN1) was adopted by UDP Cabinet Committee on 6 July 2005.

+++ Please provide a copy of the above.

Following consultation in 2011, a revised version of PGN1 was proposed in February 2012.

+++ Please provide confirmation of the date on which this version was adopted and when it was withdrawn.

The current version of PGN1, appears to be a document entitled 'Section 106 Planning Obligations in Croydon and their Relationship to the Community Infrastructure Levy Review 2019'

+++ Please confirm that that this IS the current version of PGN1, and provide the dates of any consultation and its formal adoption.

At 1.2, that current document (November 2019) tells us that the '... previous guidance on Planning Obligations (April 2013) has now been withdrawn by the Council and replaced by this guidance...'

+++ Please provide a copy of the previous guidance ['Planning Obligations (April 2013)'], and details of when and how THAT version of the guidance was consulted upon and formally adopted.”

6. The Council acknowledged the request on 5 October 2022. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 10 November 2022 to complain about the Council's failure to respond to this request.
8. The Commissioner contacted the Council on 15 November 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the Council has failed to respond to the complainant.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

11. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

12. 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."

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's decision is 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