

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 24 February 2023

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 London Borough of Croydon ("the Council") relating to leaf clearance policies.
2. The Council provided the complainant with some information within the scope of the request.
3. The Commissioner's decision is that, at the time of the request, the Council did hold more information within the scope request which it did not disclose at the time of issuing its initial response. Therefore the Council has breached regulation 5(2) of the EIR.
4. As the Council has since disclosed this additional information the Commissioner does not require any steps.

Request and response

5. On 20 April 2021 the complainant wrote to the Council and requested information in the following terms:

"I represent xxxxxxxx in a claim against Croydon Council for personal injury suffered on xxxxxxxx 1980 as a result of a slipping accident (xxxxxxx) in Purley Oaks Road, Croydon when xxxxxx slipped on an accumulation of leaf litter which had not been cleared by the Council's contractor (Veolia UK Limited).

In order to fully establish the Council's liability under Section 41 of The Highways Act 1980 it is necessary that sight be obtained of the terms applying at the relevant date to the contract for the clearance of leaf litter under an agreement executed between Croydon Council and Veolia UK Limited.

| (sic) wish therefore to make application herewith for sight of such agreement."

6. The Council responded on 17 May 2021 stating that, on the date in question it did not hold a contact with Veolia and that therefore the information was not held.
7. The complainant contacted the Council on 18 May 2021 asking for an internal review of the Council's response – specifically that it readdress the request using the correct date in 2018.
8. On 9 November 2021 the Council provided its internal review response which included disclosure of terms of its contract with Veolia relating to the clearance of leaf litter.

Reasons for decision

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

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

10. 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."

11. In their complaint to the Commissioner, the complainant stated they considered that the Council held further information within the scope of their request. Specifically, a document referenced in the contract terms called the Leafing Removal Programme.
12. The Commissioner therefore contacted the Council to raise this and to ask about the searches it had completed to locate the information.
13. In the course of the Commissioner's investigation, the Council disclosed the Leafing Removal Programme to the complainant. Having seen a copy of this document, the Commissioner considers that the Council held additional information within the scope of the request at the time the request was made.

14. The Commissioner is satisfied that, based on the balance of probabilities, the Council has provided everything it holds within the scope of the complainant's request.
15. However, as the Council did not provide the complainant with a copy of this document in the course of its original handling of the complainant's request the Commissioner finds that it has breached regulation 5(2) of the EIR. The Council has now disclosed the information to the complainant. The Commissioner does not require any steps.

Right of appeal

16. 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

17. 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.
18. 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

Catherine Fletcher
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Wycliffe House
Water Lane
Wilmslow
Cheshire
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