

Environmental Information Regulations 2004 (EIR) Decision notice

Date: 2 March 2023

Public Authority: London Borough of Ealing
Address: Perceval House
14/16 Uxbridge Road
Ealing
W5 2HL

Decision (including any steps ordered)

1. The complainant requested from London Borough of Ealing ("the Council") information regarding a Penalty Charge Notice (PCN) they had received. The Council answered each question in turn but refused to comply with the request for personal details of employees and cited regulation 13(1) (personal information) of the EIR to withhold this.
2. The Commissioner's decision is the Council was entitled to refuse to comply with the request in accordance with regulation 13(1) of the EIR. However, in relation to the timeliness of its responses, the Council breached regulations 5(2), 14(2) and 11(4) of the EIR.
3. The Commissioner does not require any steps to be taken as a result of this decision notice.

Background, request, and response

4. This investigation was born from a decision notice issued by the Commissioner's office to the Council for their failure to conduct an internal review with regard to case reference [IC-139837-L9Y7](#).
5. On 18 January 2021, the complainant made a request for information in the following terms:

"Pursuant to the aforesaid Act, I request you to provide me with full and frank disclosure(s) by way of evidence as a matter of urgency, for me to consider my position as the act allows.

1. I request you to forward to me the evidence that there was a valid notice displayed as and when the road layout was altered/amended.
2. Please confirm that the notice was clearly displayed and was visible with evidence in support.
3. I request you to forward to me the CD of the alleged offence.
4. I request you to forward the application that was made to the Local Authority and or other Authorities to have the prohibition on the said road.
5. I request you to forward to me a copy of the said Application.
6. I request you to forward the copy of the Grant of the Application.
7. I request you to forward the copy of the Notice that was served in accordance with the law.
8. I request you to forward the copy of the Planning Application.
9. I request you to forward the Grant of the Application.
10. Please confirm the date of the service of the said cameras, which allegedly took pictures of my car, allegedly entering [name redacted] Avenue/[name redacted] avenue when prohibited.
11. Please provide the evidence in support.
12. Please provide the full name and address of the company who serviced the said camera(s).

13. Please provide the full name and address of the person who carried out the said service.
 14. Please confirm the relationship of the person who serviced the said camera(s) with the said company who carried out the service on the said camera(s).
 15. Please confirm if the said cameras are compliant with the act.
 16. Please forward the evidence in support.
 17. Please provide the copy of the Calibration Certificate with a Statement of Truth.
 18. Please forward the full name and address of the person who prepared the CD and first obtained the evidence.
 19. Please forward the full name and address of the person who developed the said evidence.
 20. Please forward the full name and address of the company who developed the evidence.
 21. Please confirm the date when these road markings were painted.
 22. Please confirm the name of the company who painted these road markings.
 23. Please confirm if these road markings comply with the Act as allowed.
 24. Please supply the evidence in support of all requests without exceptions.”
6. The Council responded to the request on 23 March 2021 answering each question in turn, however, they cited regulation 13 of the EIR to withhold information regarding Q13, 18,19 and 20 explaining their response.
 7. The Council finally issued its internal review on 8 December 2022, the Council upheld its reliance on regulation 13(1) of the EIR for Q13, 18 and 19, however, it disclosed the information requested at Q20 as they had determined this was company and organisational information which did not require any personal information to be disclosed.

Scope of the case

8. On 10 December 2022, the complainant contacted the Commissioner to express their dissatisfaction with the internal review provided by the Council.
9. The Commissioner considers the scope of his investigation is to determine if the Council was entitled to rely on regulation 13(1) of the EIR to refuse to disclose the requested information.

Reasons for decision

Regulation 13 - personal information

10. Regulation 13(1) of the EIR provides that information is exempt from disclosure if it is the personal data of an individual other than the requester and where one of the conditions listed in regulation 13(2A), 13(2B) or 13(3A) is satisfied.
11. In this case the relevant condition is contained in regulation 13(2A)(a)¹. This applies where the disclosure of the information to any member of the public would contravene any of the principles relating to the processing of personal data ('the DP principles'), as set out in Article 5 of the UK General Data Protection Regulation ('UK GDPR').
12. The request for information specifies they require the full name and address of individuals with regards to the serving of a PCN. During the Commissioner's investigation, the complainant has stated that they do not necessarily require the home addresses, however, the Council have supplied information regarding the relevant departmental address, therefore, it can only be surmised the request is for the personal addresses of employees involved in the processing of the PCN.
13. The complainant goes on to argue that they require the information to prepare their case against the Council so that they may receive a fair trial, and do not believe that the correct balance has been set between the rights and freedoms of the individuals concerned, and the

¹ As amended by Schedule 19 Paragraph 307(3) DPA 2018

complainant's own right to be provided with information. However, the information requested under the EIR is not the same as information which may be considered disclosable for the purpose of any trial, and therefore, not necessarily the appropriate route to obtain such information.

14. The complainant also raises a number of further concerns/matters which the Commissioner has noted but will not be responding to within this particular investigation as they are not relevant to this particular case.
15. The Commissioner considers that, in the context of this request, the information clearly relates to third party individuals and is therefore their personal information.
16. Disclosure under either FOIA or the EIR is effectively an unlimited disclosure to the world at large, without conditions.
17. The Commissioner acknowledges that the complainant considers that they have a legitimate interest in the disclosure of the withheld personal information.
18. However, the Commissioner must balance the legitimate interests in disclosure against the data subject's interests or fundamental rights and freedoms.
19. In this case, the Commissioner is satisfied that the individuals concerned (none of whom are senior members of staff within the Council), would have the reasonable expectation that their personal data would not be disclosed to the wider world in response to an EIR request. Disclosing their personal data would be likely to cause them harm or distress.
20. Other than the requesters own personal interest, the Commissioner has not seen any evidence of a wider public interest to weigh in favour of disclosure of the withheld information, apart from the general interests of transparency and openness.
21. Based on the above factors, the Commissioner has determined that there is insufficient legitimate interest to outweigh the data subject's fundamental rights and freedoms. The Commissioner therefore considers that disclosing the information in question would contravene a data protection principle as it would not be lawful. Therefore, he has decided that the data is exempt under regulation 13(1) by virtue of 13(2A)(a). The Council is therefore entitled to withhold this information.

Timeliness

22. Under regulation 5(2) of the EIR, a public authority must make environmental information available as soon as possible and no later than 20 working days after the date of receipt of the request.
23. Under regulation 14(2) a public authority must issue a refusal notice in respect of any excepted information within the same timescale.
24. Under regulation 11(4) a public authority should provide an internal review decision as soon as possible and within 40 working days of the request for one.
25. In this case, the complainant submitted their request on 18 January 2021. The Council made information available and issued a refusal on 23 March 2022. As noted, the Council did not provide its substantive review until 8 December 2022.
26. The Commissioner therefore finds that the Council breached regulation 5(2), 14(2) and 11(4) of the EIR.

Right of appeal

27. 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@justice.gov.uk.

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

28. 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.
29. 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

Joanna Marshall
Group Manager
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