

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 June 2023

Public Authority: London Borough of Havering
Address: Town Hall, Main Road
Romford, RM1 3BB

Decision (including any steps ordered)

1. The complainant has requested correspondence between the London Borough of Havering, Transport for London, and the Mayor of London's Office regarding the ULEZ expansion. The London Borough of Havering ("the Council") stated the information was publicly available, citing Regulation 6(1)(b) of the EIR.
2. The Commissioner's decision is that Regulation 6(1)(b) is not engaged.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Provide a fresh response to the complainant's request without relying on regulation 6(1)(b) of the EIR to refuse it.
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 Act and may be dealt with as a contempt of court.

Request and response

5. On 19 January 2023, the complainant wrote to the Council and requested information in the following terms:

“Could you please provide a copy of all correspondence between Havering Council and Councillors, and Transport for London and the Mayor of London’s Office, with regards to the ULEZ expansion. Please cover the dates from Jul 14th 2022 to the present.”

6. The Council responded on 16 February 2023. It stated that the information was publicly available and provided two hyperlinks to press statements.
7. The complainant requested an internal review on 17 February 2023, which to date, the Council have not responded to.

Reasons for decision

8. Regulation 6(1)(b) of the EIR states:

“(1) Where an applicant requests that the information be made available in a particular form or format, a public authority shall make it so available, unless-

(b) the information is already publicly available and easily accessible to the applicant in another form or format.”

9. In this case, the Council provided hyperlinks to two press statements regarding the ULEZ expansion.
10. Regulation 6(1)(b) clearly requires the information to already be publicly available. As the complainant requested all correspondence between several parties, the Commissioner is not persuaded that links to press statements fulfils this request. Consequently the exemption is not engaged.
11. The Commissioner therefore requires the Council to comply with the steps at paragraph three of this decision notice.

Procedural matters

Regulation 11 - representations and reconsideration

12. Regulation 11(4) requires a public authority to complete its reconsideration as soon as possible and in any event within 40 working days.
13. In this case, the complainant requested an internal review the day after the Council responded to the request, on 17 February 2023. However, to date, the Council has not responded.
14. From the evidence presented to the Commissioner, it is clear that in failing to carry out an internal review within 40 working days, the Council has breached 11(4) of the EIR.

Right of appeal

15. 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

16. 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.
17. 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

Susan Duffy
Senior Case Officer
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Wycliffe House
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Wilmslow
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SK9 5AF