

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 16 October 2014

Public Authority: The Highways Agency
Address: 123 Buckingham Palace Road
London
SW1W 9HA

Decision (including any steps ordered)

1. The complainant has requested a copy of the section of the contract with the Highway Agency's Area 2 contractor in which it is agreed that certain information is to be treated as confidential. The Highways Agency did not respond to this request within the statutory time for compliance.
2. The Commissioner's decision is that the Highways Agency has breached Regulation 5(2) of the Environmental Information Regulations 2004 (EIR).
3. The Commissioner requires no steps to be taken.

Request and response

4. On 25 June 2014 the complainant requested information of the following description:

"Thank you for your e-mail of 17th June 2014. Could you please let me have a copy of the section of the contract with your Area 2 contractor in which it is agreed that certain information is to be treated as confidential."
5. When the complainant submitted his complaint to the ICO on 6 August 2014, the Highways Agency had not responded to the request. The Highways Agency subsequently responded to this request during the course of the Commissioner's investigation.

Scope of the case

6. The complainant contacted the Commissioner on 6 August 2014 to complain about the way his request for information had been handled. The complainant requested that the Commissioner issue a Decision Notice due to the Highway Agency's failure to respond within the statutory time for compliance.
7. The Commissioner has considered whether the Highways Agency has breached regulation 5(2) EIR in the handling of this request.

Reasons for decision

8. Regulation 5(2) 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.
9. In this case the request was made on 25 June 2014 and by 6 August 2014 the Highways Agency had not provided a response, either providing the requested information or explaining why one of the exceptions was applicable. It did however respond during the course of the Commissioner's investigation, confirming that the requested information was not held under regulation 12(4)(a) EIR.
10. The Commissioner therefore does not consider that the Highways Agency complied with Regulation 5(2) EIR in this case.

Right of appeal

11. 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@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

12. 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.
13. 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

Pamela Clements
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