

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 October 2015

Public Authority: The Planning Inspectorate
Address: 4/08 Eagle Wing
Temple Quay House
2 The Square
Bristol
BS1 6PN

Decision (including any steps ordered)

1. The complainant has requested a copy of a report into the Hastings Local Development Plan. The Planning Inspectorate disclosed some information and subsequently disclosed further information during the Commissioner's investigation.
2. The Commissioner's decision is that The Planning Inspectorate has disclosed the requested information and complied with regulation 5(1) of the EIR. However, in providing the information outside 20 working days The Planning Inspectorate breached regulation 5(2) of the EIR.
3. The Commissioner does not require the public authority to take any steps.

Request and response

4. On 25 June 2015, the complainant wrote to The Planning Inspectorate (the "Inspectorate") and requested the following information:

"...the REPORT ON THE EXAMINATION INTO THE HASTINGS LOCAL PLAN DEVELOPMENT MANAGEMENT PLAN REVISED PROPOSED SUBMISSION VERSION 10 MARCH – 22 APRIL 2014 before it was edited by the HBC Officers please?"

5. The Inspectorate responded on 22 July 2015 and disclosed what it understood to be the requested information.

6. Following an internal review the Inspectorate wrote to the complainant on 12 August 2015. It stated that it considered that it had disclosed the requested information.

Scope of the case

7. On 12 August 2015 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
8. At the internal review stage and during the course of the Commissioner's investigation, the complainant suggested that the information provided by the Inspectorate was not what had been requested. The complainant identified discrepancies between the document provided and information which they had requested from Hastings Borough Council (the "council"). The complainant also raised concerns that the document provided was not digitally signed by or otherwise authored by the Planning Inspector tasked with producing the report.
9. The Commissioner contacted the Inspectorate which, in the spirit of attempting to resolve the matter swiftly and informally, contacted the complainant to establish precisely what they considered was awry with the information which had been disclosed and whether it could assist by providing any other relevant information.
10. It transpired during the course of this engagement that the complainant had not been seeking a copy of the document provided by the Inspectorate, namely a "fact check report" but a copy of the "final report" which had been forwarded by the Inspectorate to the council.
11. The Inspectorate disclosed a copy of the final report to the complainant, however, the complainant maintains that, due to the electronic signature / metadata properties of the disclosed document it is not the actual 'final report' which was requested.
12. The Commissioner has considered whether the Inspectorate has disclosed the requested information.

Reasons for decision

13. Section 5(1) of the EIR provides that a public authority that holds environmental information shall make it available on request. Under regulation 5(2) information should be made available as soon as

possible and no later than 20 working days after the date of receipt of the request.

14. The Commissioner has considered whether the final report disclosed to the complainant accurately reflects what is held by the Inspectorate and thus constitutes what the complainant asked for.
15. The complainant has raised concerns that the disclosed final report is not the specific information which was requested. The complainant considers that the electronic properties of the disclosed document suggest that the document in question was not authored by the Planning Inspector named as the supposed author of the report.
16. The Inspectorate confirmed to the Commissioner that the final report disclosed to the complainant was the information identified in the request and was the information which it had previously provided to the council. The Inspectorate further confirmed that it did not hold any further copies or versions of the disclosed information.
17. In spite of these assurances from the Inspectorate, which were passed onto the complainant, the complainant maintained that the properties of the disclosed document suggested that the information did not constitute the requested final report authored by the relevant Planning Inspector.
18. The Commissioner invited the complainant to accept the possibility that what they expected to receive in response to their request did not necessarily reflect the reality of what was held by the Inspectorate. He also suggested that it was not the Commissioner's role to investigate the procedural arrangements which authorities had in place for the creation of or editing of documents. The Commissioner suggested to the complainant that it was entirely reasonable to accept that the author of a document would not be the final person to edit or otherwise electronically manipulate the information.
19. In spite of the Commissioner's and the Inspectorate's attempts to assist the complainant's concerns the complainant maintains that the information disclosed is not the final report which was requested.
20. In light of the Inspectorate's assurances in this regard and, having dismissed the relevance of the complainant's concerns in relation to the electronic properties of the disclosed information, the Commissioner has concluded that the requested information has been provided to the complainant. He has concluded that the Inspectorate has complied with regulation 5(1) of the EIR.
21. In this case the request was submitted on the 25 June 2015 and the Inspectorate disclosed a copy of a "fact check report" to the complainant

on 22 July 2015. During the Commissioner's investigation it was established that the complainant actually expected to receive a copy of a final report document. The Inspectorate disclosed this document to the complainant on 28 September 2015.

22. The Commissioner accepts that the Inspectorate provided the complainant with information which it, in good faith, understood to be the subject of the request within the time for compliance. However, as it has subsequently emerged that the complainant was seeking the final report and this was disclosed during the Commissioner's investigation, the Commissioner finds that the Inspectorate breached regulation 5(2) in its handling of the request.

Right of appeal

23. 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

24. 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.
25. 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

Andrew White
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF