

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 25 April 2018

Public Authority: Nottinghamshire County Council
Address: County Hall
West Bridgford
Nottingham
NG2 7QP

Decision (including any steps ordered)

1. The complainant has requested information on an injunction order in connection with a road closure.
2. The Commissioner's decision is that Nottinghamshire County Council has responded to the request correctly and fulfilled its responsibilities under the Environmental Information Regulations (EIR).

Request and response

3. On 18 June 2017 the complainant wrote to Nottinghamshire County Council and requested information in the following terms:

'What an absolute disgrace to lawful road users who pay road excise duty, insurance and taxes including council tax to fund highways England and local authority highways, why should those of use travelling home after caring in (redacted) have to incur extra costs for detours due to your Dictatorial non authority your trying to exercise over us

You claim to have an injunction, forward a copy of the formal lawful application of this alleged injunctive order the evidence on which it was sought and the order itself including the granting judicial authority, we should have a right of appeal for an such application, when was this made available?

I look forward to receiving this by return and I do not CONSENT to having my normal route home to (redacted) on a Sunday evening obfuscated or incur unnecessary costs as a result of your police state dictatorship!'

The request included a link to a news story from the Nottingham Post about plans to close a road leading up to junction 27 of the M1; however the link is no longer working so is not shown above.

4. NCC dealt with the request under the EIR and responded on 17 July 2017. It stated that the temporary road closure to which the request related did not require an injunction. It went to explain in detail the legal powers under which the closure was made, and the communications made about the closure with other agencies such as the police. It also provided information on the publicity that was made available about the closure.
5. The complainant was unhappy with the Council's response, as she believed there was a relevant injunction order regarding 'car cruising' in the area under which the road closure was made.
6. On 3 August 2017 the Council duly supplied the complainant with a copy of an injunction order connected to car cruising (although this was not about the road closure as it did not exist) and advised her that the injunction application itself could be obtained from the courts. The Council assumed that the complainant had already made a request to the courts as she had copied an email requesting the injunction

application to court officers, and addressed it 'Nottingham County Court, please forward a copy of the original application in this matter...'

7. The complainant expressed dissatisfaction with this response, and after clarifying the information sought, on 16 August 2017 the Council sent a copy of the injunction application as well. The information was sent via Cryptshare (a secure, encrypted website that allows users to send and receive large files), as the file was too large to be attached to an email. The complainant said she was unable to access the information this way, so the Council sent the information in hard copy by post.

Scope of the case

8. The complainant contacted the Commissioner on 3 September 2017 to complain about the way her request for information had been handled. She objected to the Council dealing with the matter under the EIR and did not consider that she had been supplied with the injunction application as requested.
9. The Commissioner considers the scope of the case to be whether NCC classified the request correctly as an environmental information request; and complied with its responsibilities to supply any relevant information or issue a valid refusal notice.

Reasons for decision

Regulation 2(1) - is the information environmental information?

10. Regulation 2(1) of the EIR defines environmental information as information on:

'(a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements'

'(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

'(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the

elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements'; and

'(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c)'.

11. As the request concerned a road closure (measure) that was effected to restrict vehicular access that was anticipated would create noise, pollution (factors) and potentially compromise the health and safety of other road users, the Commissioner considers that the Council was correct to classify the request under the EIR.

Regulation 5(1) - the duty to make the environmental information held available on request

12. Regulation 5(1) states that, subject to the application of various exceptions a public authority that holds environmental information shall make it available on request.
13. The complainant requested information pertaining to an injunction order following a road closure that resulted in a detour to her journey.
14. The Council responded within 20 working days, explaining that an injunction order was not required to close the road. It went on to give detail about the legal powers under which the closure was made, and the Council's efforts to provide communication and publicity about the closure.
15. Following a number of email exchanges and telephone calls between the Council and the complainant, it transpired that the complainant wanted a copy of the injunction application for an injunction order that was in place to prevent car cruising around junction 27 of the M1. The injunction itself was obtained in 2015. Although the road closure in June 2017 to which the complainant made the request relates to the same motorway junction within the injunction application and order, as previously stated by the Council, it did not require an injunction to effect the road closure initially referenced in the request.
16. The Council supplied both a copy of the order itself and the application for the injunction electronically and when the complainant maintained that she was unable to access the information in this format, it sent hard copies in the post to her.
17. The complainant objected to being sent the information in hard copy, saying that the address the information was sent to was incorrect. The

Council responded and maintained it had complied with her request by sending the information electronically and in hard copy. It also said that it would consider 'an alternative reasonable way to receive the information' if the complainant was to request another way.

18. The complainant again maintained that the Council had failed to comply with her request as she could not access the information, but failed to give the Council an alternative address, or any other suggestions, about how she might access the information.
19. Having reviewed information supplied by both the complainant and the Council, the Commissioner is satisfied that the Council has met its duties under the EIR by:
 - Classifying the request as an environmental information request correctly;
 - Complying fully with the request of 18 June 2017 within 20 working days;
 - Clarifying from the complainant the information sought when she expressed dissatisfaction with the response; and
 - Making every effort to provide the information to the complainant in a format 'so far as reasonably practicable' (section 11).

Right of appeal

20. 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

21. 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.
22. 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
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