

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 8 April 2021

Public Authority: Trowbridge Town Council
Address: The Civic Centre,
St Stephen's Place,
Trowbridge,
BA14 8AH

Decision (including any steps ordered)

1. The complainant requested information from Trowbridge Town Council on the financial spend on a particular development project. Trowbridge Town Council eventually disclosed the requested information but took in excess of twenty working days in which to do so.
2. The Commissioner's decision is that Trowbridge Town Council has failed to comply with Regulation 5(2) of the EIR. However, as the requested information has been disclosed she does not require any steps to be taken.

Request and response

3. On 1 October 2020 the complainant wrote to Trowbridge Town Council (the Council) and requested information in relation to the Doric Park Project in the following terms:

"...please can Trowbridge Town Council confirm how much public money has already been spent on this project so far to date: eg - land purchase, planning applications, architects, conveyancing, researching, co-working, contracts, legal fees, officer time, etc. The total amount spent on this project, prior to the release of this survey".
4. The Council acknowledged the request 2 October 2020.
5. The Council responded on 2 November 2020 and provided some financial information in relation to the project spend.

6. On 2 November 2020 the complainant raised a number of queries regarding the financial information provided and requested a more detailed breakdown of the various costings. The Council replied the same day but did not fully address all the queries raised.
7. On the 2 November 2020 the complainant sent a further communication to the Council effectively requesting an internal review as he was not satisfied with the information disclosed and explanations given.
8. The Council responded briefly on 3 November 2020 stating that the requested information had been disclosed and the matter was now complete. It did, however, offer to treat the internal review queries as a new request.

Scope of the case

9. The complainant contacted the Commissioner on 3 November 2020 to complain about the way his request for information had been handled. In particular, he was unhappy with the Council's response and its refusal to carry out an internal review.
10. On 27 November 2020 the Commissioner wrote to the Council requesting it to carry out an internal review within 14 days.
11. The Council responded with the outcome of the review on 30 November which the Commissioner shared with the complainant on 1 December 2020. The review provided a more detailed breakdown of the original figures and clarified the points raised by the complainant.
12. The complainant responded on 11 December 2020 stating the Council's response had satisfied his request but he was unhappy with the delay.

Reasons for decision

Is the requested information environmental?

13. Regulation 2(1) of the EIR defines environmental information as being 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)...as well as measures or activities designed to protect those elements;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); 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);

14. The Commissioner considers that, as the information requested in this case is relates to planning matters, it is a measure highly likely to affect the elements and factors of the environment as defined at regulations 2(1)(a) and 2(1)(b). She is therefore satisfied that the information falls within the definition of environmental information at regulation 2(1)(c) of the EIR.

Regulation 5(1) – Duty to make environmental information available on request

15. Regulation 5(1) of the EIR states that "*a public authority that holds environmental information shall make it available on request.*" This is subject to any exceptions that may apply.

Regulation 5(2) of the EIR – Time to respond

16. As explained above, Regulation 5(1) requires a public authority to disclose requested information. Regulation 5(2) of the EIR requires this information to be provided to the requester within 20 working days following receipt of the request.
17. The complainant requested the information on 1 October 2020 and the Council initially responded on 2 November and subsequently on 30 November 2020.

18. This is a period of more than the required 20 working days. Therefore the Commissioner finds that the Council breached regulation 5(2) of the EIR.
19. The Commissioner would like to remind that Council of the provisions of Regulation 11 of the EIR which states;

“Representations and reconsideration

11.—(1) Subject to paragraph (2), an applicant may make representations to a public authority in relation to the applicant’s request for environmental information if it appears to the applicant that the authority has failed to comply with a requirement of these Regulations in relation to the request.

(2) Representations under paragraph (1) shall be made in writing to the public authority no later than 40 working days after the date on which the applicant believes that the public authority has failed to comply with the requirement.

(3) The public authority shall on receipt of the representations and free of charge—

(a) consider them and any supporting evidence produced by the applicant; and

(b) decide if it has complied with the requirement.

(4) A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.

(5) Where the public authority decides that it has failed to comply with these Regulations in relation to the request, the notification under paragraph (4) shall include a statement of—

(a) the failure to comply;

(b) the action the authority has decided to take to comply with the requirement; and

(c)the period within which that action is to be taken”.

20. The representations made by the complainant on 2 November 2020 should have been acknowledged and actioned under Regulation 11(2) of the EIR. However, the Commissioner accepts the Council took appropriate action within the timeframe, following her intervention on 27 November 2020.

Right of appeal

21. 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@justice.gov.uk

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

22. 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.
23. 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

Laura Tomkinson
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