

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: **18 November 2022**

Public Authority: **Shropshire Council**
Address: **Shirehall**
Abbey Foregate
Shrewsbury
SY2 6ND
Information.request@shropshire.gov.uk

Decision (including any steps ordered)

1. The complainant requested from Shropshire Council data on vehicular frequency on a particular road and any laws and rules regulating such frequency.
2. The Commissioner's decision is that Shropshire Council has failed to adequately respond to the request within 20 working days and has therefore breached Regulations 5(1) and 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the EIR, to the request.
4. The Council 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 23 February 2022 the complainant wrote to Shropshire Council (the Council) and requested information in the following terms:

'Please can you provide the data to support the claim that School Gardens has one car every 15-20 minutes, and let me know where the laws byelaws regulations rules in relation to highways are modified by the frequency of traffic or in highways that are dead ends?'

6. The Council responded on 11 March 2022. It stated that:

'As we have conveyed in our previous correspondence, the approximate assessment is that traffic flow is very low here and also slow moving, with pedestrians often choosing to use the carriageway rather than the narrow pavement. We have to apply common sense to the situation and look at each case individually as we have done here'

Scope of the case

7. The complainant contacted the Commissioner 16 March 2022 to complain about the way his request for information had been handled. In particular, he was dissatisfied the Council failed to, state whether it held the specific information he requested and if so, failed to disclose it or apply an EIR exception.
8. The Commissioner investigation will be to assess whether the Council has responded to the complainant's request in accordance with the EIR.

Reasons for decision

Is the requested information environmental as defined by the EIR?

9. 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);”

10. The Commissioner considers that, as the information requested in this case relates to vehicular frequency on a particular road and any laws and rules regulating such frequency, it is a measure affecting or likely to affect the elements and factors of the environment, such as land and landscape, as defined by Regulation 2(1)(a). He is therefore satisfied that the information falls within the definition of environmental information under Regulation 2(1)(c) of the EIR.

Response under Regulation 5(1) of the EIR

11. Regulation 5(1) of the EIR states that:

“a public authority that holds environmental information shall make it available on request.”

12. Regulation 5(2) of the 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.”

13. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a substantive response to the request within 20 working days, the Council has breached Regulations 5(1) and 5(2) and it is now required to respond to the request in accordance with the EIR.

Other Matters

14. The Commissioner would recommend that the council is guided by his guidance on [refusing a request under the EIR](#)¹ and on [the time for compliance under the EIR](#)².

¹ <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/refusing-a-request-under-the-eir/>

² <https://ico.org.uk/media/for-organisations/documents/1622/time-for-compliance-eir-guidance.pdf>

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

**Laura Tomkinson
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**