

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 22 February 2017

**Public Authority:** Royal Borough of Greenwich  
**Address:** Town Hall  
Wellington Street  
Woolwich  
London  
SE18 6PW

#### **Decision (including any steps ordered)**

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1. The complainant has requested information from the Royal Borough of Greenwich ("the Council") broadly relating to the ownership of a boundary structure at a specific address.
2. The Commissioner's decision is that the Council does not hold information falling within the scope of request 2. However the Commissioner has determined that the Council has incorrectly applied regulation 6 of the EIR to request 1.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - issue a fresh response to the complainant confirming which does not rely on regulation 6(1)(b).
4. The public authority 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 Act and may be dealt with as a contempt of court.

#### **Request and response**

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5. On 22 January 2016, the complainant wrote to the Council and requested information in the following terms:

*"1) Who owns the boundary structure (wall and fence) sited on the dividing line between [redacted address] and the subject site?*

*2) What land use category does the subject site have?*

*3) Please provide a copy of the license agreement between RBG and [redacted address]."*

6. The Council responded on 10 February 2016 and applied regulation 6(1)(b) to requests 1 and 2. It stated that the complainant could locate the information sought in requests 1 and 2 on the Land Registry website.
7. With regard to request 3, the Council applied regulation 13 on the basis that the requested information was third party personal data.
8. The complainant subsequently asked for an internal review to be carried out. He disputed the Council's response to his requests.
9. The Council sent the outcome of its internal review on 23 May 2016. It maintained its previous decision.

### **Scope of the case**

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10. The complainant contacted the Commissioner on 31 May 2016 to complain about the way his request for information had been handled.
11. During the Commissioner's investigation, the Council confirmed that the information falling within the scope of request 2 was not held on the Land Registry. Instead, the Council confirmed that the piece of land in question did not have a land use category. The Council further disclosed the information sought within request 3.
12. The Commissioner has therefore had to consider whether the Council correctly applied regulation 6(1)(b) to request 1 and whether the Council holds any information falling within the scope of request 2.

### **Reasons for decision**

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#### **Regulation 6(1) – Form and format of information**

##### Request 1

13. Under regulation 6 of the EIR, a public authority does not have to comply with an applicant's preference if it is reasonable to make the information available in another form and format or if the information is already publically available and accessible in another form and format.
14. The link to the Commissioner's specific guidance produced in regard to this regulations is provided below:  
  
<https://ico.org.uk/media/for-organisations/documents/1639/form-and-format-of-information-eir-guidance.pdf>
15. The Council confirmed that the information was available on the Land Registry website by carry out an index map search. The information located by carrying out this search was provided to the Commissioner.
16. The Commissioner has reviewed the information on the Land Registry website. The entry on the Land Registry refers to a map with two boundaries marked 'A' and 'B'. However, having looked at the map, it does not identify the boundaries.
17. The Commissioner therefore considers that the information available on the Land Registry website does not provide the information sought in request 1. The Commissioner requires the Council to comply with the steps detailed in paragraphs 3 and 4 of this notice.

### **Regulation 12(4)(a) – is the requested information held**

#### Request 2

18. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes may be held, the ICO, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.
19. In other words, in order to determine such complaints the ICO must decide whether on the balance of probabilities a public authority holds any information which falls within the scope of the request (or was held at the time of the request).
20. With regard to request 2, the Council confirmed that the piece of land in question does not have a land use category; it is referred to as 'white land'. The Council explained:

*"White Land is a general expression used to mean land (and buildings) without any specific proposal for allocation in a development plan, where it is intended that existing uses shall remain undisturbed and unaltered".*

21. The complainant was informed of this and disputed it. The Commissioner subsequently returned to the Council for further information with respect to this. The Council responded and explained:

*"...white Land is not a use category, and it does not fall into another land use category".*

22. The Commissioner is satisfied on the balance of probabilities that the Council does not hold any information falling within the scope of request 2.

## Right of appeal

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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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://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** .....

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