

Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)
Decision notice

Date: 15 December 2023

Public Authority: Greater London Authority
Address: City Hall
London
SE1 2AA

Decision (including any steps ordered)

1. The complainant has requested the R File(s) used to provide the statistical analysis in the production of the Inner London Ultra Low Emission Zone – One Year Report.
2. The Commissioner’s decision is that Greater London Authority has failed to provide the requested information contrary to Regulation 5(1) of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Provide the complainant with the information falling within the scope of the request or issue a refusal notice compliant with regulation 14 of the EIR.
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 FOIA and may be dealt with as a contempt of court.

Request and response

5. On 12 February 2023, the complainant wrote to Greater London Authority (“the public authority”) and requested information in the following terms;
 - Earlier this month the Mayor published a report “Inner London Ultra Low Emission Zone-One Year Report which is made available at

Inner London ULEZ Expansion 1 Year Report¹

The report advises that the statistical analysis in the report was produced using the software package R. I would be grateful if you could provide the R file or files used to produce the analysis.
6. The public authority responded on 11 April 2023. It stated that

“The information you have requested is exempt from disclosure under Section 21 of the Freedom of Information act. The purpose of the Section 21 exemption is to ensure that there is no right of access to information via FOIA if it is available to the applicant by another route.

... .The analysis code has been developed overtime (*sic*) using Opensource programming and package (*sic*) freely available from R:The R Project for Statistical Computing(r-project.org)”.²
7. Following an internal review the public authority wrote to the complainant on 22 May 2023. It stated that it upheld its position.

Scope of the case

8. The complainant contacted the Commissioner 19 July 2023 to complain about the way his request for information had been handled.
 9. The Commissioner wrote to the public authority (on 18 August 2023) confirming that he considered the request was for environmental information and therefore should have been considered under the EIR.
 10. The public authority agreed with the Commissioner. On 30 August 2023, it issued the complainant with a fresh response under the EIR. It stated to the complainant, amongst other things, as follows.
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¹ [Inner London ULEZ Expansion 1 Year Report](#)

² [R: The R Project for Statistical Computing \(r-project.org\)](#)

“In line with the ICO’s recommendation, we have considered your request under the Environmental Information Regulation (EIR) 2004. Our response is as follows: The R software is an open-access software that the GLA has used to apply the methodology of the Air Quality analysis. The methodology, sources, sites, included in the analysis, etc. are all listed in Appendix 2 of the report and available to you. The software is available for use by anyone who wishes to undertake air quality analysis using the methodology as provided in the GLA’s published report. I believe that in pointing you to the report containing the Air Quality calculation and methodology we have answered your question as you are able to produce the results based on the methodology used by the Authority”.

11. The Commissioner considers he has to determine whether the public authority has correctly applied the EIR to the complainant’s request for information.

Reasons for decision

12. The Commissioner is satisfied that the requested information is environmental information falling within regulations 2(1)(b) & (c) as it sufficiently concerned with factors and measures concerning emissions.
13. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request
14. The Commissioner considers that the complainant’s request for information is unambiguous. It was for the R code(s) utilised in the production of the Inner London Ultra Low Emission Zone – One Year Report.
15. The public authority wrongly purports to have met the request by directing the complainant to a website. This is not making environmental information available on request. In any event, a simple viewing of the website³ shows that there are multiple versions of the open source R code. The public authority has not delineated which version of the R code it utilised. Accordingly it has not complied with the complainant’s request for information. The Commissioner therefore directs that the public authority provides the complainant with the R code(s) he is seeking.

Procedural matters

³ Supra

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16. Under regulation 5(2) of the EIR, a public authority must make environmental information available as soon as possible and no later than 20 working days after the date of receipt of the request.
 17. The complainant submitted his request on 12 February 2023 and the public authority has not provided the requested information. Accordingly, the Commissioner finds that the public authority breached regulation 5(2).

Right of appeal

18. 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

19. 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.
20. 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

**Gerrard Tracey
Principal Adviser
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**