

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

Decision notice

Date: 12 September 2017

Public Authority: London Borough of Hackney
Address: Hackney Town Hall
Mare Street
London
E8 1EA

Decision (including any steps ordered)

1. The complainant has requested copies of maps showing all registered common land and town or village greens within the borough. The council refused to disclose this information citing section 21 of the FOIA.
2. The Commissioner has decided that the request should have been considered under the EIR and, because the council has failed to respond to the complainant's request for an internal review, it has breached regulation 11 of the EIR.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The council should carry out an internal review in accordance with regulation 11 of the EIR and notify the complainant of its findings.
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

5. On 20 March 2017, the complainant wrote to the council and requested information in the following terms:

“Could you please provide copies of your maps showing registered Common Land/Town or Village Greens under the EIR.”

I would like to receive copies of the maps either by email or post as it would be a 10 hour trip by car to visit your offices. Please note that digital representations are acceptable.”

6. The council responded on 6 April 2017. It refused to disclose the requested information citing section 21 of the FOIA.
7. The complainant requested an internal review on 18 April 2017. She stated that the request should have been considered under the EIR and it was unreasonable to expect her to visit the offices to view the information for the reasons explained in her original request.
8. The complainant chased the council on 17 May, 19 and 26 June 2017. But to date she has not received the council’s internal review response.

Scope of the case

9. The complainant contacted the Commissioner on 3 July 2017 to complain about the way her request for information had been handled. She stated that she had not received the council’s internal review response despite several reminders and disagreed that she was able to visit the office to view the information, as this would equate to a 10 hour trip.

Reasons for decision

Is the request FOIA or EIR?

10. The Commissioner considers the request should have been considered under the EIR. The requested information is information on a measure or plan as defined in regulation 2(1)(c) of the EIR (designation of common land and village greens and associated maps) which will or would be likely to affect the elements of the environment outlined in regulation 2(1)(a), namely the land and landscape.

11. The Commissioner is therefore of the view that the council should have responded to the request under the EIR rather than the FOIA.

Regulation 11 – Representations and reconsideration

12. Regulation 11(4) of the EIR states that a public authority shall carry out an internal review and notify the applicant of its findings within 40 working days of receipt.
13. In this case the complainant requested an internal review on 18 April 2017 and to the date of this notice it has not been completed. The Commissioner therefore finds the council in breach of regulation 11 of the EIR.

Right of appeal

14. 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

15. 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.
16. 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

Samantha Coward
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF