

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

**Date:** 3 July 2018

**Public Authority:** Liverpool City Council  
**Address:** Cunard Building  
Water Street  
Liverpool  
L3 1AH

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to the construction of new homes in Norris Green.
2. The Commissioner's decision is that Liverpool City Council ("the Council") has failed to respond to the request within 20 working days and has therefore breached Regulation 5(2) of the Environmental Information Regulations ("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

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5. On 6 December 2017, the complainant wrote to the Council and requested information in the following terms:

*"I'd like all the details of the funding and financing of the initial phase of housebuilding of 45 social rented units and 15 private for-sale units in Norris Green Liverpool (Norris Green Village) - involving the partnership between Liverpool City Council, Sigma and Countryside Properties with funds from the Home and Communities Agency. The partnership began in 2007, with the site launched in 2010 by the Mayor.*

*"I am particularly interested in anything regarding the freehold arrangements for the for-sale units, which were sold as leasehold properties, and the arrangement with Countryside as to how much they paid or whether they were given the land. I am interested in why it was decided that selling leasehold housing with freeholds being sold to a company based in the British Virgin Islands, charging ground rates doubling every 15 years, and with the homeowners not offered the freeholds to buy, was agreed as a suitable scheme for the area, and why homeowners attempting to purchase their own freeholds are offered them at greatly inflated rates to the price originally sold."*

6. The Council provided an automated acknowledgement on the same day, but had failed to provide a substantive response by the date of this notice.

## Scope of the case

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7. The complainant contacted the Commissioner on 14 March 2018 to complain about the way her request for information had been handled.
8. In line with her usual practice, the Commissioner contacted the Council on 10 April 2018 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The Complainant contacted the Commissioner on 1 May 2018 to confirm that the Council had yet to issue a response. Because the response remains outstanding, despite her intervention, the Commissioner considers that a decision notice is appropriate in this case.

10. The scope of the Commissioner's investigation is to determine whether the Council complied with Regulation 5(2) of the EIR.

### **Reasons for decision**

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11. 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;*
  - (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;*
12. The Commissioner has not seen the requested information but, as it is information relating to the construction of new houses, she believes that it is likely to be information about a "measure" which affects the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.
13. Regulation 5(1) states that: *"a public authority that holds environmental information shall make it available on request."*
14. Regulation 5(2) states that such information shall be made available *"as soon as possible and no later than 20 working days after the date of receipt of the request."*
15. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council breached Regulation 5(2) of the EIR

## Right of appeal

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17. 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)

18. 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.
19. 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 .....**

**Ben Tomes  
Team Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**