

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

Decision notice

Date: 27 July 2018

Public Authority: Thanet District Council

Address: Cecil Street
Margate
Kent
CT9 1XZ

Decision (including any steps ordered)

1. The complainant requested copies of information provided to a specific firm for the purposes of carrying out a valuation on a specific property.
2. The Commissioner's decision is that Thanet District 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

5. On 14 May 2018, the complainant wrote to a solicitor at the Council and requested information in the following terms:

"As agreed, the following is my subsequent FOI relating to the Ft Rd Hotel Valuation:-

"Please provide copies of all information, reports, instructions provided to the valuer Gerald Eve LLP, including all previous valuations which included any hope of other value and information relating to future uses, together with all information relating to the 'responsible minister' being the political head of the authority."

6. The Council did not acknowledge the request. When the complainant chased a response on 16 June 2018, the solicitor responded in the following terms:

"I am not the appropriate person to send FOI requests to, I also do not remember receiving this."

7. The Council had failed to provide a substantive response by the date of this notice.

Scope of the case

8. The complainant contacted the Commissioner on 25 June 2018 to complain about the way his request for information had been handled.
9. In line with her usual practice, the Commissioner contacted the Council on 3 July 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.
10. The Complainant contacted the Commissioner on 17 July 2018 to request a decision notice considering the Council's compliance with the EIR.
11. The scope of the Commissioner's investigation and the following analysis is to determine whether the Council has complied with Regulation 5(2) of the EIR.

Reasons for decision

12. 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) *cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c);*
13. The Commissioner has not seen the requested information but, as it is information relating to the valuation of land, she believes that it is likely to be information about economic analyses of measures affecting the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.
14. Regulation 5(1) states that: "*a public authority that holds environmental information shall make it available on request.*"
15. 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.*"
16. The Commissioner considers that the request in question constituted a valid request for information under the EIR.
17. 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 has breached Regulation 5(2) of the EIR.

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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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

**Ben Tomes
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Cheshire
SK9 5AF**