

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 May 2023

Public Authority: Westminster City Council

Address: 64 Victoria Street
London
SW1E 6QP

Decision (including any steps ordered)

1. The complainant requested information from Westminster City Council (the Council) relating to correspondence regarding a specific property. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
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 15 November 2022, the complainant made the following request for information to the Council:

"Please note that I am only interested in information generated between 15 November 2021 and the present day.

Please note that the reference to [NAME REDACTED] in the questions below should include [NAME REDACTED] himself, any employee and or representative of the [REDACTED] which represents [NAME REDACTED], any employee and or representative of [NAME REDACTED]'s [NAME REDACTED] of companies, any legal representative acting on behalf of [NAME REDACTED] and any contractors including any architects working on the property identified below.

Please note that the reference to correspondence and communication in the questions below should include all traditional forms of correspondence and communication including letters and faxes, all emails irrespective of whether they were sent and or received via private and or official accounts, all G-mail messages, all telephone text messages and all messages sent through encrypted messaging services including but not limited to WhatsApp.

Please note that I would like to receive copies of actual documents rather than excerpts from those documents. In the case of letters, I would like to be able to see the letter heads, the signatures and any other design features. In the case of emails and other messages I would like to be able to see dates and times sent and the original sentence and paragraph structures. If you must redact any information, can you please redact it where it appears in the correspondence and communication than I will be able to judge the extent and location of the redaction.

Please note the reference to Westminster Council in the questions below should be restricted to the council's planning department, the council leader and their private office, the Chief Executive/Head of service and their private office, the council's press and public affairs department, the council's legal affairs department and any council department or employee with specific responsibility for the care and maintenance of historic properties and or listed buildings.

1...During the aforementioned period did/has Westminster Council written to and or communicated with [NAME REDACTED] about his property [LOCATION REDACTED]. Please note that I am interested in all correspondence and communication which mentions and or

relates to the property in any way. If the answer to this question is yes, can you, please provide copies of this correspondence and communication together with any supporting documents (including plans, designs, sketches, photographs, maps) submitted with this correspondence and communication.

2...During the aforementioned period did/has [NAME REDACTED] written to and or communicated with Westminster Council about the property [LOCATION REDACTED]. Please note that I am interested in all correspondence and communication which mentions and or relates to the property in any way. If the answer to this question is yes, can you please provide copies of this correspondence and communication together with any supporting documents (including plans, designs, sketches, photographs, maps) submitted with this correspondence and communication." (sic)

6. The Council acknowledged the request on 15 November 2022. To date, a substantive response to the request has not been issued.

Reasons for decision

7. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

8. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

9. The Commissioner contacted the Council on 14 April 2023 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this intervention the Council has failed to respond to the complainant.
10. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

11. 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

12. 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.
13. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
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