

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

Date: 27 July 2023

Public Authority: Harrow Council
Address: Civic Centre
Station Road
Harrow HA1 2XF

Decision (including any steps ordered)

1. The complainant has requested information regarding planning and dust complaints.
2. Harrow Council refused to provide the requested information on the grounds that the requests were manifestly unreasonable (regulation 12(4)(b)).
3. The Commissioner's decision is that Harrow Council has failed to persuade him that the requests were manifestly unreasonable.
4. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the complainant that does not rely on regulation 12(4)(b) of the EIR.
5. 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

IC-159032-X2X6¹

6. On 30 January 2022, the complainant wrote to the public authority and requested information from it by saying as follows:

"Please can you provide a list of ALL PLANNING COMPLAINTS between 1st February 2019 and 30th November 2019, which resulted in Planning Enforcement being engaged.

I want to know the following:

1. date/time the complaint was raised
2. the title and description
3. date/time it was reviewed and prioritised by Harrow Council
4. the heading/classification given
5. the date/time assigned to a Planning Officer
6. the date/time of initial visit to site by Planning Enforcement
7. date/time registered on Council's system
8. dates /times of subsequent visits to site
9. dates when any communication and notice issued

Please provide in .xls or .csv spreadsheet format.

IC-159033-L1J5²

¹¹ See paragraph 11 below.

² See paragraph 11 below.

7. On 30 January 2022, the complainant also requested information by saying as follows.

"Please can you provide a list of all complaints received for dust and also identify which complaints resulted in abatement notices issued (if applicable), by the council within the following time periods:

1st February 2020 to 30 September 2020 for the following point:

- Dust complaints relating to building works

I want to know the following:

1. date and time the complaint was initially raised
2. how council was notified
3. the title and description
4. confirmation of evidence and/or photographic evidence provided
5. date and time the onsite visit was made by council team to confirm the nuisance
6. date registered on Council's system
7. dates when any initial communication was issued
8. dates of subsequent site visits to re-confirm the nuisance
9. date of notice(s) issued

To clarify I am requesting all instances relating to dust complaints, in addition also want to know when dust abatement notices were issued.

Kindly request to receive the data in excel or .csv format if possible, else PDF."

8. On 18 March 2022, Harrow Council responded to both requests in one reply. It explained that it was handling the requests under the EIR. It refused to provide the requested information on the apparent grounds that it considered the requests to be "manifestly unfounded or excessive, taking into account whether the request is repetitive in nature".

9. The complainant requested an internal review. Harrow Council sent him the outcome of its internal review on 18 August 2022. It upheld its position.

Scope of the case

10. The complainant initially contacted the Commissioner on 3 March 2022 to complain about the way his requests for information were being handled.
11. The Commissioner referenced the first request of 30 January 2022 as IC-159032-X2X6 and the second request of that date as IC-159033-L1J5.
12. The Commissioner considers he has to determine whether the public authority was entitled to refuse to provide the complainant with the information he had requested.

Reasons for decision

13. The requested information concerns planning complaints and complaints about dust. As such the Commissioner is satisfied that the information sought is environmental information under regulation 2(1)(a) and 2(1)(c) of the EIR.

Regulation 12(4)(b) – manifestly unreasonable request.

14. Regulation 12(4)(b) of the EIR provides that a public authority may refuse to disclose information to the extent that the request is manifestly unreasonable.
15. The Commissioner considers that a request can be manifestly unreasonable either if the request is vexatious, or where compliance with the request would incur a manifestly unreasonable burden on the public authority both in terms of costs and the diversion of resources.
16. In order to reach his decision the Commissioner wrote to the public authority on 14 March 2023. He said, amongst other things;

“...we need the following information from you to reach a decision.

Your full and final submissions on why the exception relied upon applies.

To facilitate you in providing your full and final submissions, I link below questions that should be answered regarding the exception you are

relying on. Please note that I will, unless you tell me otherwise, consider your expressed considerations in the refusal and review notices. Therefore, use this opportunity to revise or supplement your previous stated positions.

Please explain the covering time frame of the previous requests and the nature of what was sought. Please provide details of the issues the complainant repeatedly raises.

Key Questions for Public Authorities – Environmental Information Regulations 2004 | ICO

17. As of the date of this decision notice the Commissioner has not received from Harrow Council its substantive reply and submissions to his letters dated 14 March 2023. As stated in the letters, the Commissioner will nonetheless consider Harrow Council's expressed considerations in the refusal and review notices.
18. Harrow Council explained to the complainant that it was treating his requests as manifestly unreasonable for the following reasons.
 - His numerous prior requests, complaints and correspondence with and about council officers.
 - It stated that he was pursuing personal grievances against the public authority in relation "to issues and there is nothing more to say or do about them".
 - It further accused him of "attempting to reopen issues which have already been addressed by the council. You are abusing the right of access to information by using the information legislation as a means to vent your anger at the council. You have also made allegations about a particular Officer which have been ongoing for over a year with no evidence provided to substantiate your claim".
19. The Commissioner considers the assertions and allegations expressed to the complainant lack the sufficient detail and granulation for him to deprive the complainant of his right to environmental information on the grounds that it was manifestly unreasonable. The Commissioner is disappointed that Harrow Council did not take the opportunity to provide the needed detail and granulation when invited to do so by the Commissioner. If Harrow Council had provided the requested detail and granulation the Commissioner may have come to a different decision
20. The Commissioner requires Harrow Council to issue a fresh response to the complainant that does not rely on regulation 12(4)(b) of the EIR.

Reference: IC-159032-X2X6 and IC-159033-L1J5

Right of appeal

21. 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

22. 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.
23. 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 FOI
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF