

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 8 September 2023

Public Authority: Sheffield City Council

Address: Town Hall
Pinstone Street
Sheffield
S1 2HH

Decision (including any steps ordered)

1. The complainant requested information from Sheffield City Council (the public authority).
2. The Commissioner's decision is that the public authority has failed to rely on an exception or issue a refusal notice within 20 working days and has therefore breached regulation 14 of the EIR. The public authority has also breached regulation 11 of the EIR by failing to complete an internal review within 40 working days.
3. The Commissioner requires the the public authority 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 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 11 May 2023, the complainant made the following request for information to the public authority:

"The wall outside the Dram Shop on Commons side has been collapsing for about 2 years. I have repeatedly asked for it to be repaired as it is dangerous and an eyesore but to little avail. I have requested local councillors to pursue this but so far there has been no response from the council apart from streets ahead who say it is not their wall. I would like to see a record of what investigations and actions have been taken in regard to this matter and a record of any requests by councillors to investigate this matter. My suspicion is that no investigations or actions have been taken."
6. The public authority wrote to the complainant on 9 June 2023 to advise that, as the complainant was in contact with its Property Services department about their complaint concerning the wall, it had closed the request for information.
7. The complainant responded on 9 June 2023 and confirmed that they were dissatisfied with the response and confirmed that they still wanted the requested information.
8. The public authority acknowledged the complainant's correspondence of 9 June 2023 as a request for an internal review. However, to date, the public authority has not provided an internal review response.

Reasons for decision

9. Regulation 14 of the EIR states that, where a public authority wishes to refuse a request, it must provide the requester with a refusal notice within 20 working days. The purpose of such a notice is to help the requester understand why they are not receiving the information they have asked for and what their appeal rights are – so that they can challenge any reasons for refusal they believe to be incorrect.
10. The refusal notice must state:
 - the EIR exceptions being relied upon to withhold information; and
 - where relevant, details of the public interest test that has been carried out; and

- that the requester is entitled to seek an internal review if they are dissatisfied with the response; and
 - that the requester has the right to complain to the Commissioner.
11. The Commissioner contacted the public authority on 18 August 2023 reminding it of its responsibilities and asking it to provide a review of its response to the complainant within 10 working days. Despite this intervention the public authority has failed to respond to the complainant.
 12. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the public authority has breached regulation 14 by failing to provide a refusal notice or rely on an exception within 20 working days and it has also breached regulation 11 by failing to complete its internal review within 40 working days. The public authority is now required to respond to the request in accordance with the EIR.

Right of appeal

13. 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

14. 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.
15. 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
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Wycliffe House
Water Lane
Wilmslow
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