

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

Date: 24 June 2024

Public Authority: Wirral Metropolitan Borough Council
Address: Town Hall
Brighton Street
Wallasey
Merseyside
CH44 8ED

Decision (including any steps ordered)

1. The complainant requested information from Wirral Metropolitan Borough Council (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority 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 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.¹
4. The public authority must take these steps within 30 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

¹ The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format;
[Information Commissioner's Office - Advisory note to public authorities | ICO](#)

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 21 February 2024, following the public authority's response to an earlier request about air conditioning or heat pump units at Birkenhead Town Hall, the complainant made the following request for information:

"As a result of your responses, please also provide all recorded information on any action of whatever kind and whether formal or informal the council as planning authority has taken to discharge its responsibility to enforce planning control in relation to these three air conditioning or heat pump units outside Birkenhead town hall.

Please also provide all recorded information regarding any reference, consideration, communication or discussion of the impact the lack of permission here so publicly at Birkenhead town hall may or has had on the level of adherence to planning control by the public, the level of trust and confidence the public have in the council's implementation of planning control, and on the council's ability to continue to effectively enforce planning control without detriment."

Reasons for decision

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

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

7. 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."

8. The Commissioner contacted the public authority on 3 June 2024 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this intervention the public authority has failed to respond to the complainant.

9. 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 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

10. 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

11. 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.
12. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF