

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

Date: 22 July 2024

Public Authority: London Borough of Havering
Address: Town Hall
Main Road
Romford
MR1 3BB

Decision (including any steps ordered)

1. The complainant has requested a copy of a footway parking resolution from the London Borough of Havering (the Council).
2. The Commissioner's decision is that the request should have been handled under the Environmental Information Regulations 2004 (EIR) rather than the Freedom of Information Act 2000 (FOIA).
3. The Commissioner also finds that the Council has breached regulation 11 by failing to issue an internal review within 40 working days.
4. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response (an internal review) to the request under the EIR.
5. The Council 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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

6. On 6 November 2023, the complainant wrote to the Council and requested information in the following terms:

“Footway parking is permitted on parts of Cambridge Avenue, Romford; this being the case the council must have made a footway parking resolution under section 15(4) of the Greater London Council (General Powers) Act 1974.

Under the Environmental Information Regulations 2004, I hereby request a copy of the footway parking resolution for this road. Please could this be provided in PDF format, with searchable / selectable text, and inclusive of all schedules.

Please note, this request is for the resolution and its schedules and annexes in their entirety, not only the part of the order relevant to the location mentioned above. Please do not provide any sort of "extract" that is anything less than the full document.”

7. The Council responded on 19 January 2024. It stated that the requested information was exempt under section 21 of FOIA.
8. The Complainant requested an internal review on 19 January 2024, however the Council has not provided an internal review to date.

Reasons for decision

Is the requested information environmental?

9. This reasoning covers whether the Council was correct to handle the request under the FOIA rather than the EIR.
10. The complainant requested information relating to footway parking resolution for a road which cars have been permitted to park on. The Commissioner considers the information to be environmental as it falls within the definition of environmental information provided at regulation 2(1)(c) of the EIR, “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”
11. The Commissioner’s decision is that the Council did not handle the request under the correct legislation as the requested information is environmental. Therefore, the Council should have considered the

request under the EIR rather than FOIA. The Commissioner requires the Council to provide the complainant with a fresh response to the request under the EIR.

Regulation 11 – reconsideration (internal review)

12. Regulation 11 of the EIR states that

“(3) The public authority shall on receipt of the representations and free of charge—

(a) consider them and any supporting evidence produced by the applicant; and

(b) decide if it has complied with the requirement.

(4) A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.”

13. In this case, the complainant requested an internal review on 19 January 2024 and the Council has to date not provided an internal review. The Commissioner therefore finds that the Council has breached regulation 11 of the EIR by failing to carry out an internal review within the statutory time limit of 40 working days.

Right of appeal

14. 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

15. 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.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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