

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 20 December 2024

Public Authority: Ruyton-XI-Towns Parish Council
Address: 2 Bronte Drive
Newport
Telford
TF10 7FT

Decision (including any steps ordered)

1. The complainant has requested information relating to Safer Roads Group (SRG) reports.
2. Ruyton-XI-Towns Parish Council (the Council) provided information falling within the scope of the request; however, the complainant believes additional information is held by the Council.
3. The Commissioner's decision is that, on the balance of probabilities, the Council does not hold any additional information relevant to the request.
4. However, as the Council failed to provide the information that it did hold within 20 working days, the Commissioner has found a breach of regulation 5(2) of the EIR.
5. The Commissioner does not require the Council to take any steps as a result of this decision notice.

Request and response

6. On 8 December 2023, the complainant submitted a request to the Council requesting information in the following terms:

"A copy of the SRG reports made to the Parish Council that date from after the CIL project came into being."

7. The Council responded on 21 February 2024, and 22 May 2024, providing information falling within the scope of the request.
8. Following an internal review, the Council wrote to the complainant on 17 June 2024, stating that it had provided all the information it held falling within the scope of the request.

Scope of the case

9. Within their complaint to the Commissioner, the complainant has argued that the Council has not provided all information it holds in relation to their request.
10. The request from 8 December 2023, was revised from an earlier request to the Council. The Commissioner considered that this revised request ought to have been considered as a new request by the Council and it appeared that it had not been.
11. He wrote to the complainant on 11 October 2024, explaining that he would investigate the Council's response to the request of 8 December 2023.
12. Therefore, the scope of the case is to determine if the Council holds further information falling within the scope of the request.

Reasons for decision

Regulation 5 – Duty to make environmental information available on request

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

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

14. 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.”

15. In cases such as this, where there is some dispute as to the amount of information falling within the scope of the request, the Commissioner, following the lead of a number of Information Tribunal decisions, applies the civil standard of the balance of probabilities.

16. In other words, in order to determine such complaints the Commissioner must decide whether, on the balance of probabilities, a public authority holds any further information which falls within the scope of the request.
17. In applying this test, the Commissioner will consider the results of the searches undertaken by the public authority and/or other explanations offered as to why no further information is held.
18. While the Council have stated that it responded to the complainant on 21 February 2024, it is unclear to the Commissioner what information was provided at that point.
19. The Council explained that its original Clerk left the Council in late September 2023, and that two locum Clerks then covered the period between November 2023 to May 2024.
20. On 22 May 2024, a locum Clerk, wrote to the complainant explaining that due to inconsistent lines of communication within the Parish Council, there had been some difficulties in ensuring that a full and timely response to their request had been provided.
21. However, the Clerk provided information falling within the scope of the request and stated that, in order to ensure that all information falling within the scope of the request was disclosed, some information may have been provided previously.
22. Within their submissions to the Commissioner the Council stated that searches were carried out by the locum clerk who sent the response of 22 May 2024, and that this response included all the information falling within the scope of the request.
23. It confirmed that in order to ensure that all information was provided, the response had been compiled in consultation with the previous two Clerks in order to help identify locations within the filing system which might hold information pertaining to the request.
24. The Council has stated that it has carried out what it believed were adequate and appropriate searches of its records in order to locate any relevant information which it holds falling within the scope of the request. These included electronic searches using search terms such as 'SRG' 'CIL' and 'minutes'. It also confirmed that, having only been in post for a few weeks, the Clerk searched various paper records such as agendas and minutes of meetings in an attempt to locate any further references to SRG reports.
25. The Council has provided to the Commissioner a list containing details of documents, including SRG reports, which were located by these searches and which, it states, have been provided to the complainant.

26. The Commissioner recognises that the complainant believes that further information should be held and should have been disclosed.
27. In view of the Council's responses, the Commissioner is satisfied that, on the balance of probabilities, the Council does not hold further recorded information within the scope of the request.
28. However, as the council failed to respond to the complainant's request within 20 working days, the Commissioner has found a breach of regulation 5(2) of the EIR.

Right of appeal

29. 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

30. 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.
31. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Ben Tomes
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF