

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 19 December 2024

Public Authority: Isle of Anglesey County Council
Address: Council Offices
Llangefni
Anglesey
LL77 7TW

Decision (including any steps ordered)

1. The complainant has requested information regarding a plot of land from the Isle of Anglesey County Council (the Council). The Council refused to provide the requested information citing section 21 of FOIA.
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).
 - The Council breached 5(2) by failing to provide a response to the requests within 20 working days.
 - The Council also breached regulation 11 by failing to issue an internal review within 40 working days.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a fresh response to the request under the EIR.
4. 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

5. On 1 March 2024, the complainant wrote to the Council and requested information in the following terms:

“We would like all information relating to the land title number CYM788489 in Pentraeth, Anglesey. We would like all correspondence, emails, site visits, reports, meetings or any other information that involves this land. The land is owned by ourselves and is inadvertently involved in a drainage issue regarding a housing development on Rhos Caravan Park. Any information that involves our land title reference above, via this project we ask that this be disclosed to us.”

6. The Council responded on 15 May 2024. It stated that it did not hold information, but also advised that the requested information was exempt from disclosure under section 21 of FOIA.
7. Following an internal review the Council wrote to the complainant on 24 September 2024. It stated that no further information within the scope of the request was held.

Reasons for decision

Is the requested information environmental?

8. Regulation 2(1) of the EIR defines environmental information as being information on:
- (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
 - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
 - (c) 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;
 - (d) reports on the implementation of environmental legislation;

- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
 - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);
9. Having reviewed the wording of the request, the Commissioner believes that the requested information is likely to be information on measures and factors likely to affect the elements of the environment. This is because the requested information relates to a plot of land and drainage issues.
10. As the Commissioner is satisfied that the request should have been handled under the EIR, he now requires the Council to issue a fresh response to the request under the EIR.

Procedural matters

Regulation 5(2)

11. Under regulation 5(2) of the EIR, a public authority must make environmental information available as soon as possible and no later than 20 working days after the date of receipt of the request.
12. As the Council failed to provide a response to the requests within 20 working days of receiving them, it has breached regulation 5(2) of the EIR.

Regulation 11 – reconsideration (internal review)

13. In the relation to the duty to carry out internal reviews the relevant sections of regulation 11 of the EIR state:
- “(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.”

14. In this case the complainant requested an internal review on 29 May 2024 and the Council did not provide its internal review until 24 September 2024.
15. 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

16. 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

17. 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.
18. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Michael Lea
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