ico. Information Commissioner's Office

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: **22 November 2019**

Public Authority: **London Borough of Croydon**
Address: **Bernard Weatherill House**
8 Mint Walk
Croydon
CR0 1EA

Decision (including any steps ordered)

1. The complainant has requested information about valuation reports produced for the council by Lambert Smith Hampton.

2. The Commissioner's decision is that the London Borough of Croydon ("the Council") has failed to respond to the request within 20 working days and has therefore breached Regulation 5(2) of the Environmental Information Regulations ("the EIR").

3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.

   - Issue a substantive response, under the EIR, to the request.

4. The Council 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 12 July 2019, the complainant wrote to the Council and requested information in the following terms:

   "Please provide all valuation reports produced for the council by Lambert Smith Hampton for land and/or property where that land has been sold by the council from 2012 onwards (inclusive)."

6. The Council did not acknowledge the request and had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 14 August 2019 to complain about the way their request for information had been handled.

8. In line with her usual practice, the Commissioner contacted the Council on 6 September 2019 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days. Her correspondence was neither acknowledged nor responded to.

9. The Complainant contacted the Commissioner on 17 November 2019 stating that they had still not received a response to their request. The Commissioner therefore considers that a decision notice is appropriate in this instance.

10. The Commissioner considers that the scope of her investigation is to determine whether the Council has complied with Regulation 5(2) of the EIR.

Reasons for decision

11. 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);

12. The Commissioner has not seen the requested information but, as it is information relating to valuation reports on land sales, she believes that it is likely to be information about economic analyses, used within a framework of plans or activities which affect or are likely to affect the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.

13. Regulation 5(1) states that: *"a public authority that holds environmental information shall make it available on request."*

14. Regulation 5(2) states that such information shall be made available "*as soon as possible and no later than 20 working days after the date of receipt of the request."*

15. The Commissioner considers that the request in question constituted a valid request for information under the EIR.

16. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to the request within 20 working days, the Council has breached Regulation 5(2) of the EIR.

Right of appeal

17. 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: 0300 1234504
    Fax: 0870 739 5836
    Email: grc@justice.gov.uk
    Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

18. 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.

19. 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 ……

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