

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

Decision notice

Date: 17 November 2020

Public Authority: Three Rivers District Council

Address: Three Rivers House
Northway
Rickmansworth
Herts
WD3 1RL

Decision (including any steps ordered)

1. The complainant has made three requests for information about Planning enforcement matters. Three Rivers District Council ("the Council") had failed to respond to any of the requests at the date of this notice.
2. The Commissioner's decision is that the Council has failed to respond to any of the requests within 20 working days and has therefore breached Regulation 5(2) of the Environmental Information Regulations ("the EIR") in respect of each request.
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 all three requests.
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

Request 1

5. On 25 November 2020, the complainant wrote to the Council and requested information in the following terms:

"I write to request the following information:

- *All correspondence between Three Rivers District Council and Hertfordshire County Council with respect to Condition 7 of 12/0645/FUL and 13/0946/FUL.*

"This relates to a Green Travel Plan.

- *All correspondence between Three Rivers District Council and Hertfordshire County Council with respect to Travel Plans at the Home Park Industrial Estate, located in Kings Langley."*

Request 2

6. On 3 February 2020, the complainant wrote a further email to the Council, complaining about the way a previous complaint he had submitted was handled and referring to correspondence sent by his then-MP. At the foot of that email, he also made a further request for information:

"Any response by TRDC to MP Main's email on 14/10/2019."

Request 3

7. On 27 April 2020, the complainant wrote again to the Council, this time making a third request for information:

"I write to request the following information, in addition, as a new FOI request:

- *All correspondence between Three Rivers District Council (any employee or elected representative) and Pure Bricks Ltd (any employee or person/organisation/company acting on Pure Bricks Ltd's behalf) with respect to Condition 7 of 12/0645/FUL & 13/0946/FUL, and Enforcement Case 19/0035/COMP. This relates to a Green Travel Plan. All correspondence between Three Rivers District Council (any employee or elected representative) and Pure Bricks Ltd (any employee or person/organisation/company acting on Pure Bricks Ltd's*

behalf) with respect to Travel Plans at the Home Park Industrial Estate, located in Kings Langley.

- *All correspondence between Three Rivers District Council (any employee or elected representative) and Imagination Technologies Limited (any employee or person/organisation/company acting on Imagination Technologies Limited's behalf) with respect to Condition 7 of 12/0645/FUL & 13/0946/FUL, and Enforcement Case 19/0035/COMP. This relates to a Green Travel Plan. All correspondence between Three Rivers District Council (any employee or elected representative) and Imagination Technologies Limited (any employee or person/organisation/company acting on Imagination Technologies Limited's behalf) with respect to Travel Plans at the Home Park Industrial Estate, located in Kings Langley.*
- *The contents of an email response by Three Rivers District Council to Anne Main MP on 13/11/2019.*

8. The Council had failed to provide a substantive response by the date of this notice.

Scope of the case

9. The complainant's mother first contacted the Commissioner on 20 July 2020 to complain about the way a number of requests, submitted to the Council, had been dealt with over a period spanning more than a year.
10. The Commissioner noted that most of the requests in question had been submitted well over a year before the complaint and that the more recent requests had been made by the complainant and not his mother. She has therefore declined to deal with any requests earlier than the ones cited above – although she notes the contention that these requests were not responded to within the 20 working day timeframe.
11. At this point the complainant asked to take over the complaint on his mother's behalf and explained that the complaint to the Commissioner had been held back whilst the Council dealt with a corporate complaint in relation to the underlying issue.
12. The Commissioner therefore agreed to accept a complaint in respect of the three most recent requests. In line with her usual practice, the Commissioner contacted the Council on 17 September 2020 to highlight the outstanding response. She requested that the Council respond to the request within 10 working days – though asked it to identify any specific

pandemic-related issues which were preventing it from responding. The correspondence was neither acknowledged nor responded to.

13. The Complainant contacted the Commissioner on 24 October 2020 to request a decision notice considering the Council's compliance with the EIR. He also attempted again to persuade the Commissioner to widen the scope of her investigation to include earlier requests.
14. The Commissioner considers that the scope of her investigation is to determine only whether the Council has complied with Regulation 5(2) of the EIR.

Reasons for decision

15. 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;*

16. The Commissioner has not seen any of the requested information but, as it is information relating to the enforcement of Planning conditions, she believes that it is likely to be information on a "measure" affecting the elements of the environment. For procedural reasons, she has therefore assessed this case under the EIR.
17. Regulation 5(1) states that: *"a public authority that holds environmental information shall make it available on request."*
18. 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."*

19. The Commissioner considers that the requests in question constitute valid requests for information under the EIR.
20. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a response to any of the requests within 20 working days, the Council has breached Regulation 5(2) of the EIR in respect of each request.

Right of appeal

21. 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

22. 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.
23. 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
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF