

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 11 December 2020

Public Authority: Wyre Council
Address: Civic Centre
Breck Road
Poulton-le-Fylde
Lancashire
FY6 7PU

Decision (including any steps ordered)

1. The complainant requested information relating to noise complaints made against a supermarket.
2. The Commissioner's decision is that Wyre Council ("the Council") failed to respond to the request within 20 working days and therefore breached regulation 5(2) of the Environmental Information Regulations ("the EIR").
3. As a response has now been provided to the complainant, the Commissioner does not require Wyre Council to take any further steps in relation to this request

Request and response

4. On 10 June 2020, the complainant wrote to the Council and requested information in the following terms:

"Under the Freedom of information act please could you send me full details of all noise complaints made against Morrison's Supermarket, Amounderness Way, Thornton-Cleveleys, FY5 3TS received by yourselves or the Environmental Health since the beginning of 2010. I

fully understand that you will not give me the name(s) of the complainant(s).

The details I request are:-

- *Date and time of complaints.*
- *Nature of complaints.*
- *Case file from complaints.*
- *Noise levels taken by the council.*
- *Experience and qualifications of Council investigation and supervising officers.*
- *Action taken by council including fully documented reasons for any action taken.*
- *Rationale behind action.*

Copies of any notices served."

5. The Council responded to the request on 18 September 2020. It disclosed some of the requested information but withheld the remainder under regulation 13 of the EIR. The complainant does not wish to challenge this.

Scope of the case

6. The complainant contacted the Commissioner on 04 August 2020 to complain about the failure, by Wyre Council, to respond to the request.
7. In line with her usual practice, the Commissioner contacted Wyre Council on 28 August 2020 to highlight the outstanding response. She requested that Wyre Council respond to the request within 10 working days.
8. Wyre Council responded on 24 September 2020, providing information, but withholding some under regulation 13 of the EIR.
9. The complainant contacted the Commissioner on 28 October 2020 to request a decision notice considering the Council's compliance with the EIR timescales. He did not want to challenge the regulation 13 refusal.
10. The scope of this notice and the following analysis is to consider whether Wyre 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 requested information was in relation to noise complaints linked to a supermarket. Noise issues are covered under Regulation 2(1)(b) of the EIR, therefore the information request was handled according to 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, Wyre 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@hmcts.gsi.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

Ben Tomes
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