

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 4 May 2022

Public Authority: Nottingham City Homes Limited

Address: Loxley House
Station St
Nottingham
NG2 3NG

Decision (including any steps ordered)

1. The complainant has requested information from Nottingham City Homes Limited ("NCHL") regarding works completed on a specific public footpath. By the date of this notice NCHL had not issued a substantive response to this request.
2. The Commissioner's decision is that NCHL 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 NCHL to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response, under the EIR, to the request.
4. NCHL 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 January 2022, the complainant wrote to NCHL and requested information in the following terms:

"This is a request for information made under the Freedom of Information (FOI) Act 200.

1. Records of all work done to the public footpath between houses 68 Deepdene Way NG8 6BH and 70 Deepdene Way NG8 6BH between 1st December 2018.
 2. Records of reason for works to this footpath (stated in 1 above), and records of all remedial works that were carried out to this footpath between the above said period (stated in 1 above).
 3. Please provide this information via post and email (see email address below)"
6. NCHL acknowledged the request on 27 January 2022 but had failed to provide a substantive response by the date of this notice.

Scope of the case

7. The complainant contacted the Commissioner on 24 March 2022 to complain about the way their request for information had been handled.
8. In line with his usual practice, the Commissioner contacted NCHL on 02 April 2022 to highlight the outstanding response. He requested that NCHL respond to the request within 10 working days. The correspondence was neither acknowledged nor responded to.
9. The Complainant contacted the Commissioner on 19 April 2022 to advise that they had still not received a response from NCHL.
10. The Commissioner considers that the scope of his investigation is to determine whether NCHL 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 work done to a footpath, he believes that it is likely to be information about work that affects the elements of the environment. For procedural reasons, he 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, NCHL 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: 0203 936 8963

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

**Catherine Fletcher
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**