

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 25 January 2022

Public Authority: London Borough of Hackney
Address: Town Hall
Mare Street
London
E8 1EA

Decision (including any steps ordered)

1. The complainant requested information from the London Borough of Hackney ("the Borough") including a copy of the notice given under section 235 Housing Act 2004 to London & Quadrant Housing Trust by Hackney Council in relation to [redacted address]. By the date of this notice the Borough had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the Borough failed to respond to the complainant's request within 20 working days of receipt and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Borough to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the EIR.
4. The Borough 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 Act and may be dealt with as a contempt of court.

Request and response

5. On 22 January 2021, the complainant wrote to the Borough and requested information in the following terms:

"Please treat this email as a formal Request under the Freedom of Information Act 2000 or the EIR (whichever is applicable) for me to be supplied with: 1. A copy of the notice given under section 235 Housing Act 2004 ('Notice') to London & Quadrant Housing Trust by Hackney Council in relation to [redacted address]; 2. A copy of emails, letters and documents that London & Quadrant Housing Trust has provided to Hackney Council in response to the Notice; 3. A copy of any decision that has been taken by Hackney Council to pursue (or not) further investigation or take enforcement action (or not) in light of the Notice; and 4. A copy of correspondence and any letters between the London Fire Brigade and Hackney Council in connection with the Notice. I note the recent Decision Notice dated 27 July 2021 handed down by the ICO Commissioner in relation to LBTH which has a similar fact pattern to this request and consider that the requested information is required to be disclosed. See <https://ico.org.uk/media/action-weve-taken/decision-notices/2021/2620378/ic-90850-d4p0.pdf>."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 27 September 2021 to complain about the way his request for information had been handled.
8. On 7 January 2022 the Commissioner wrote to the Borough, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
9. Despite this intervention the Borough has failed to respond to the complainant.
10. The Commissioner considers that the scope of his investigation is to determine whether the Borough 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 has considered the wording of the request and notes that it is a copy of the notice given under section 235 Housing Act 2004. Therefore he believes that it is likely to be information about (d) reports on the implementation of environmental legislation. 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, the Borough has breached regulation 5(2) of the EIR and it is now required to respond to the request in accordance with 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF