

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 6 March 2013

**Public Authority:** Islington Council

**Address:** Town Hall  
Upper Street  
London  
N1 2UD

#### **Decision (including any steps ordered)**

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1. The complainant has requested information about a cricket pitch and some fencing.
2. The Information Commissioner's decision is that the public authority did not deal with the request for information in accordance with the EIR in that it did not apply the correct legislation when handling the request.
3. The Information Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide a fresh response under the EIR.
4. The public authority 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

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5. On 26 March 2012, the complainant wrote to Islington Council (the Council) and requested information in the following terms:  
  
*'All information relating to the continued playing of cricket and the proposed new fence at Wray Crescent and all emails, policy papers, minutes and budget proposals.'*
6. The Council responded on 26 March. It stated that it was disclosing information relating to policy and budget proposals but withheld the emails and any other correspondence under section 12.
7. Following an internal review the Council wrote to the complainant on 2 May. It upheld its decision to apply section 12.

## Scope of the case

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8. The complainant contacted the Information Commissioner (the Commissioner) on 26 July 2012 to complain about the way his request for information had been handled. He explained that he wanted all the details relating to a specific council project. The complainant confirmed that he had been provided with some information but wanted to see any exchanges between councillors, contractors and council officials in relation to the project.
9. The Commissioner considers that the requested information should have been considered under the EIR

## Reasons for decision

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10. Environmental information is defined in regulation 2 of the EIR as :

*"any information in written, visual, aural, electronic or any other material form on ...":*

- the state of the elements of the environment, such as air, water, soil, land;
- emissions and discharges, noise, energy, radiation, waste and other such substances; and

- measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment.
11. The Commissioner considers that the requested information is environmental information in that it falls within the definition of environmental information provided in Regulation 2. He considers that it relates to an element of the environment as defined in regulation 2(1)(a) namely "land and landscape" .
  12. The Commissioner interprets environmental information in a broad way. He considers that information such as planning applications can be defined as environmental information if they relate to a measure or activity that has an effect on the environment. It can be argued that in this case it would have an effect on the environment.
  13. In this case the Commissioner understands that the Council had to apply for planning permission to replace the fence on the cricket ground (he understands that the replacement fence was much higher than the original fence) and that planning permission was sought to erect netting to prevent cricket balls leaving the pitch, although this was subsequently withdrawn.
  14. Having considered the nature and context of the request, the Commissioner has concluded that it constitutes environmental information as defined by regulation 2(1)(c) of the EIR. This is because the information in this case relates to information on a measure or activity and the measure or activity in question affects, or is likely to affect, the environment.
  15. The Council agreed that the information should have been considered under the EIR and has confirmed that it is reconsidering it.

## Right of appeal

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16. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

17. 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.
18. 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 .....**

**Jon Manners**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**