

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 24 June 2022

Public Authority: Oldham Metropolitan Borough Council
Address: Civic Centre
West Street
Oldham OL1 1UT

Decision (including any steps ordered)

1. The complainant requested information from Oldham Metropolitan Borough Council ("the Council") about the disposal of a school site. The Council provided information falling within the scope of the request.
2. The Commissioner's decision is that the request fell to be considered under the EIR. He has determined that the Council failed to comply with regulation 5(2) of the EIR, since it did not provide the requested information within 20 working days and, in addition, failed to comply with regulation 11(4) of the EIR since it did not provide the outcome of its reconsideration within 40 working days.
3. Since a response and reconsideration were ultimately provided, the Commissioner does not require the Council to take any steps.

Request and response

4. On 27 February 2021, the complainant wrote to the Council (referred to in his request as OMBC) to request information of the following description:
 - 1) "Could we kindly request the following information we regard to the above former school site:

- a) All information provided by OMBC to the 'Schools Asset Team' at the Department for Education (assessment of the application prior to referring the application to the 'Schools Playing Fields Advisory Panel') in relation to this application.
 - b) The land/site was disposed of under a section 77 of the Schools Standards and Framework Act 1998 and a General Consent order between 2012 and 2014 (we assume). Can you provide all supporting documentation and due process.
 - c) Simply put: All material, correspondence, presentations and recommendations to the Secretary of State for Education in relation to this application.
- 2) Could we request in the interests of transparency ALL INFORMATION AND CORRESPONDENCE OMBC have had with the DFE with regard to the disposal, reutilisation and re-classification of this site, we assume, between 2012 to 2014 and then post 2017?
 - 3) In February 2020 OMBC declared re-ownership of the school site. June 2020 the site was 'handed over' (and re-registered to OMBC) from the DFE and granted Schedule 1 consent to dispose of the site under the Academies Act 2010. In October 2020 'actual lock and keys' handover, and demolition commencement.

Could we request all correspondence between the DFE and OMBC post the closure of the Collective Free Spirit School in 2017 with specific regard to Disposal Consent Orders (& supporting info) and handovers (officially & locks) in 2020."

5. On 26 May 2021, the Council responded and provided some information.
6. The complainant requested an internal review on 1 June 2021, stating that the information he had received did not fall within scope of any part of his request.
7. On 4 October 2021, the Council wrote to him explaining that further searches had been carried out, and provided some further information. It also sent further information on 22 October 2021.

Scope of the case

8. The complainant contacted the Commissioner on 27 July 2021 to complain about the way his request for information had been handled. He wished the Commissioner to highlight the delays in the Council responding to his request.

9. This notice considers the time taken by the Council to respond to the request, and to respond to the request for a reconsideration.

Reasons for decision

Regulation 5 – Duty to provide environmental information on request

10. Regulation 5(1) of the EIR states that, subject to certain provisions, a public authority that holds environmental information shall make it available on request.
11. Regulation 5(2) states that the information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request.
12. The Commissioner is satisfied that the request fell to be considered under the EIR, since the requested information was “information on measures and/or activities likely to affect the elements and factors of the environment”, and therefore fell within the definition of “environmental information” at regulation 2(1)(c) of the EIR.
13. In this case, the request was made on 27 February 2021, and the Council responded on 26 May 2021. This clearly exceeds the 20 working days allowed under regulation 5(2).
14. In light of the above, the Commissioner has determined that the Council failed to comply with regulations 5(1) and 5(2) of the EIR.

Regulation 11 – representations and reconsideration

15. Under regulation 11(4) of the EIR, a public authority asked to reconsider its handling of a request must provide the outcome as soon as possible, and no later than 40 working days after the date of receipt of the request for a reconsideration.
16. In this case, the complainant made representations on 1 June 2021, and the Council provided the outcome on 4 October 2021. This was well outside the 40 working day requirement.
17. The Commissioner has therefore determined that the Council was in breach of regulation 11(4) of the EIR.
18. Since the response has now been issued, the Commissioner does not require any remedial steps to be taken.

Right of appeal

19. 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

20. 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.
21. 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

Sophie Turner
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF