

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

### **Decision notice**

**Date:** 29 October 2021

**Public Authority:** Birmingham City Council  
**Address:** Council House  
Victoria Square  
Birmingham  
B1 1BB

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

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1. The complainant requested information from Birmingham City Council ("the Council") about visits to wards by new mobile waste and recycling wagons. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council has breached regulation 5(2) of the EIR in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
  - The Council must provide a substantive response to the request in accordance with its obligations under the EIR.
4. The Council must take this step 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 13 July 2021, the complainant wrote to the Council and requested information in the following terms:

*"1. Please provide a list of the dates and locations that the new mobile waste and recycling wagons have visited as of the date of responding to this request*

*2. Please provide a copy of all emails/memos/text messages/and other form of messaging from any council officer, contractor or cabinet member to wards councillors informing them that the mobile waste and recycling wagons will be visiting their ward."*

6. The Council acknowledged the request on 15 July 2021. To date, a substantive response to the request has not been issued.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 22 September 2021 to complain about the Council's failure to respond to their request.
8. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

### **Reasons for decision**

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9. Regulation 5(1) of the EIR states that: "a public authority that holds environmental information shall make it available on request."
10. Regulation 5(2) of the EIR states that: "Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."
11. The Council did not provide a substantive response to the request within 20 working days of receipt. Therefore, the Commissioner's decision is that the Council has breached regulation 5(2) of the EIR.
12. On 11 October 2021 the Commissioner wrote to the Council, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
13. Despite this intervention the Council has failed to respond to the complainant. The Council did contact the Commissioner on 25 October 2021 to apologise for not being able to provide a response within the time limit.

14. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner finds that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

## Right of appeal

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15. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

16. 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.
17. 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**