

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

### **Decision notice**

**Date:** 23 November 2021

**Public Authority:** Manchester City Council  
**Address:** Town Hall  
Albert Square  
Manchester  
M60 2LA

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

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1. The complainant requested information held by Manchester City Council (the council) relating to works carried out on the pavement outside his home.
2. The Commissioner's decision is that it is likely that, on the balance of probabilities, the council has provided the complainant with all the information that it holds that is relevant to the request.
3. The Commissioner does not require the council to take any steps as a result of this decision notice.

#### **Request and response**

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4. By way of background, on 19 October 2020, the complainant wrote to the council and requested information in the following terms:

*I would like to request information on works carried out on pavement and section of road as per attached outside [Property 1]. I would like to know why works were carried out, what works were actually carried out and when.*

5. The council responded to the request on 11 November 2020, providing some details of works that had been completed on 24 April 2018, 11 December 2019, and 15 June 2020.

6. The complainant did not receive the council's response and it was resent to him on 17 November 2020. On the same date he contacted the council again, requesting the following:

*Please can you provide more detailed information as per question highlighted in red [highlighted in bold for the purposes of this decision notice] regards investigatory work carried out, findings and what information was forwarded to United Utilities.*

*Date Completed: 24 April 2018.*

*Why works were carried out; Investigatory footway works were carried out due to claims that the ground was sinking at this location. The issue was then forwarded to United Utilities.*

***What were the findings of this investigatory work and causes of ground sinkage?***

*What works were carried out: Investigation dig in footway carried out by Manchester City on 4<sup>th</sup> April 2018 and then passed to United Utilities. Works were carried out by United Utilities.*

***What date were the works carried out by United Utilities and what exactly did they do. Please provide detailed information on works carried out.***

7. The council advised the complainant that his correspondence of 17 November 2020, was to be dealt with as a new request for information, and it provided its response on 1 December 2020 (although the complainant stated that this was not received until 11 December 2020).
8. The council confirmed that its records showed that its officers attended the relevant area on 4 April 2018, and that as the problem was found to be with a United Utilities asset, details were passed to United Utilities on the same day. It also confirmed that, on 24 April 2018, the case was closed, and that it held no further information about the matter.
9. With regard to the complainant's request for details of any works that may have been carried out by United Utilities, the council advised that it did not hold this information, and recommended that the complainant contact United Utilities directly for further assistance on the matter.
10. On 11 December 2020, the complainant requested an internal review. He advised that he believed that in order for the matter to have been referred to United Utilities, the results of the council's investigation must have recorded what asset was causing the sinkage, and that this was the information he specifically required.

11. Again, there appears to have been an issue with the complainant receiving the council's internal review response; he asked for an update on 2 February 2021, and the council confirmed that it had already provided its response on 18 January 2021.
12. The council confirmed that it had conducted a further search of its records and that it was satisfied that, 'unfortunately', it did not hold details of the United Utilities asset.
13. The council went on to explain that referrals are made by telephone in line with United Utilities' call centre procedures. It confirmed that a referral was made on 4 April 2018, and that on 24 April 2018, an officer had updated the council's database with that information which had already been provided to the complainant on 1 December 2020.
14. The council advised the complainant that, given the above, it believed its response to him of 1 December 2020, was correct.

### **Scope of the case**

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15. The complainant contacted the Commissioner on 2 February 2021, to complain about the way his request for information had been handled.
16. The Commissioner is to consider whether it is likely that, on the balance of probabilities, the council holds any further information which is relevant to the complainant's request.

### **Reasons for decision**

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#### **Regulation 5(1) - Duty to make environmental information available on request**

17. Regulation 5(1) of the EIR states that '*a public authority that holds environmental information shall make it available on request.*' This is subject to any exceptions that may apply.
18. In cases where a dispute arises over the extent of the recorded information that was held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and arguments. She will also consider the actions taken by the authority to establish what information within the scope of the request it held, and any other reasons offered to explain why further information is not held. She will also consider any reason why it is inherently likely, or unlikely, that further information is not held.

19. For clarity, the Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
20. The complainant has stated that he requires the details of exactly what United Utilities asset was identified as causing sinkage, and the works which were carried out to resolve this, if any. He has advised that United Utilities have informed him that it does not hold details of any works carried out on the pavement outside his home, and that the two parties are providing him with contradictory information.
21. The Commissioner fully appreciates the complainant's concerns about the sinkage caused to the pavement outside his home, and his frustration at not having received confirmation as to its cause, and whether it is a problem that has now been resolved.
22. However, the council has confirmed that it has carried out two separate searches for information that might be held (in response to the initial request, and the internal review), and has provided the complainant with some information that relates to his request. It has advised that it does not hold anything further about the 'asset', or the works carried out by itself, or United Utilities, on the pavement outside his home.
23. It would appear that the information which has been requested would be held in very specific locations within the council's systems, and therefore would be easily identified, if it were held.
24. Whilst the complainant may believe that additional information should be held, the Commissioner has found no evidence which would indicate that the council's position is wrong, or that any further information is held that is relevant to the request.
25. As a result, the Commissioner has decided that, on the balance of probabilities, there is no additional information held by the council that is relevant to the complainant's request.

## Right of appeal

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26. 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)

27. 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.
28. 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 .....**

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