

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 18 October 2022

Public Authority: Liverpool City Council
Address: Cunard Building
Water Street
Liverpool
L3 1AH

Decision (including any steps ordered)

1. The complainant requested information from Liverpool City Council ('the council') regarding a development which ultimately did not go ahead. The council initially disclosed information to the complainant with sections redacted; however, it subsequently disclosed the unredacted information to the complainant in full. The complainant, however, argues that further information may be held by the council.
2. The Commissioner's decision is that, on the balance of probabilities, the council has disclosed all of the relevant information to the complainant. The Commissioner has decided, however, that the council did not comply with the requirements of Regulation 5(2).
3. The Commissioner does not require the council to take any steps.

Request and response

4. On 3 August 2020, the complainant wrote to the council and requested information in the following terms:
 1. All internal correspondence within PAMS and between PAMS and other departments, in which my name, my company or the site at [street name redacted by the ICO] are mentioned, from May 2, 2018 to today's date.
 2. All external correspondence (where relevant to my complaint) between PAMS and any third parties external to Liverpool City Council regarding the site, where it includes my name, my company name, or neither, from 17 December 2018 to today's date.
 3. Code of Conduct and Customer Service Plan where a customer self identifies as being vulnerable, either as an individual or as belonging to a disadvantaged group.
5. The council initially applied exemptions to redact some sections of the information which it disclosed. However, during the course of the Commissioner's investigation, it withdrew its reliance upon the exceptions and disclosed the information to the complainant.

Scope of the case

6. The complainant contacted the Commissioner 12 August 2021 to complain about the way his request for information had been handled. He initially complained about the application of the exceptions to redact sections from the information. However, following the disclosure of the unredacted information, he believes that further information may be held by the council.
7. This scope of this decision notice is therefore whether any further information is held by the council. It will also consider the time which the council took to disclose the information to the complainant.

Reasons for decision

Regulation 12(4)(a)

8. The council argues that it does not hold any further information falling within the scope of the request for information. It has therefore applied Regulation 12(4)(a) (information not held).
9. The ICO must therefore decide whether, on the balance of probabilities, the public authority holds any - or additional - information which falls within the scope of the request.

The complainant's position

10. The complainant argues that further information may be held by the council.

The council's position

11. The council argues that it has carried out adequate and appropriate searches in order to locate any information held by it falling within the scope of the request for information. It says that it has not located any further relevant information.
12. The council described the searches which it carried out. These included searches of its electronic files, using key words to identify relevant documents, searches of its manual files in relevant council departments, and consultation with key officers to determine whether any further information may be held which it had not initially identified. No further information was located.
13. It noted that: "...whilst previous correspondence may have existed this is no longer retained nor is this capable of retrieval from electronic servers on the basis that Liverpool City Council has robust procedures to ensure the comprehensive, secure and permanent deletion of data once processing has concluded."

The Commissioner's conclusion

14. The complainant is concerned that further information may be held by the council. However, the council has confirmed that it has carried out adequate and appropriate searches of its records in order to locate any relevant information which it holds falling within the scope of the request for information. Where it has located relevant information, it has disclosed this to the complainant.
15. There is no contradictory evidence available to the Commissioner that indicates the council's position is wrong.
16. On this basis, the Commissioner has concluded that, on the balance of probabilities, no further information is held by the council falling within the scope of the complainant's request of 3 August 2020.

Regulation 5(2)

17. The complainant request was received by the council on 3 August 2021. The council disclosed the information to the complainant on 24 August 2022, and further pages to the complainant on 26 September 2022.
18. This falls outside of the 20 working days to respond required by Regulation 5(2).
19. The Commissioner's decision is therefore that the council did not comply with the requirements of Regulation 5(2) of the EIR.

Right of appeal

20. 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

21. 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.
22. 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

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