

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 April 2022

Public Authority: Bournemouth, Christchurch and Poole Council

Address: BCP Council Offices

Town Hall

Bourne Avenue

Bournemouth

BH2 6DY

Decision (including any steps ordered)

1. The complainant requested information from Bournemouth, Christchurch and Poole Council (the Council) relating to the use of the Baiter Slipway and car park. 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 failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The Council 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. In April 2021, as part of a detailed letter on various issues the complainant made the following request for information to the Council:

"Via a Freedom of Information request, provide information relating to the use of the Baiter Slipway (if possible) and car park for 2019, 2020 and thus far for 2021. This would provide evidence of use of these facilities, low use after 8pm would provide evidence for closure in order to alleviate noise disturbance in the evenings and at night."
6. To date, a substantive written response to the request has not been issued. A verbal response to the information request was issued to the complainant on 4 March 2022. Public authorities must always respond in writing when they receive a request for information under the EIR.

Scope of the case

7. The complainant contacted the Commissioner on 9 December 2021 to complain about the Council's failure to respond to this request.
8. The Commissioner contacted the Council on 22 December 2021 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 15 working days.
9. Despite this intervention, as well as multiple telephone calls and further chasers, the Council has failed to provide the complainant with a substantive written response..
10. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

11. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."
12. 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.”

13. 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’s decision is 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.

Other matters

14. During the course of his investigation the Commissioner requested further information from the Council on a number of occasions. The further information was not provided in a timely manner and repeated requests for updates were not replied to. The Commissioner wishes to highlight to the Council that proactive engagement with his investigation would have led to a swifter resolution of this complaint, to the benefit of all parties.
15. The Commissioner also reminds the Council that information requests should be logged as soon as they are received. In this case, the request was not recognised for a number of months by the Council.

Right of appeal

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF