

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

### **Decision notice**

**Date:** 25 July 2023

**Public Authority:** Leeds City Council  
**Address:** PO Box 837  
Leeds  
LS1 9PZ

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

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1. The complainant requested from Leeds City Council (the Council) information regarding the A660 Cycleway Scheme and the consultation process around this. The Council refused the request and cited regulation 12(4)(b) (manifestly unreasonable) of the EIR.
2. The Commissioner's decision is that the Council was entitled to rely on regulation 12(4)(b) of the EIR to refuse to comply with the request. The Commissioner does not require the Council to take any steps as a result of this decision.

#### **Background information**

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3. The Council provided the Commissioner with background information and explained that the Council is currently considering the introduction of a cycle lane on the A660 in Leeds. As part of this proposal, the Council has undertaken a comprehensive consultation exercise with members of the public in order to publicise the proposals and to take on board their views. The complainant is an objector to this scheme.

#### **Request and response**

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4. On 13 March 2023 the complainant wrote to the Council and requested information in the following terms:

"A Connecting Leeds A660 consultation took place between the 30th January and the 12th March 2023. Under the terms of the Freedom of Information Act, I'd be obliged if you could let me know the following:

1. How many individuals were approached? i.e., how many people were made aware by one means or another that the consultation had begun or was to begin?
  2. How many individuals responded online?
  3. How many of these online responses were favourable to the scheme?
  4. What are the postcodes of the individuals making online favourable responses?
  5. How long on average did each person take to make a favourable online response?
  6. What percentage of people making an online favourable response were offered a financial incentive to respond?
  7. How many online responses were unfavourable to the scheme?
  8. What are the postcodes of individuals making unfavourable online responses?
  9. How long on average did each person take to make an unfavourable online response?
  10. What percentage of people who made an unfavourable online response were offered a financial incentive to respond?
  11. How many individuals requested or were handed an offline form?
  12. How many offline responses were received?
  13. How many offline responses were favourable to the scheme?
  14. What are the postcodes of individuals who made favourable offline responses?
  15. How many offline responses were unfavourable to the scheme?
  16. What are the postcodes of individuals making unfavourable offline responses?"
5. On 15 March 2023 the complainant submitted another request for information in the following terms:

"Connecting Leeds ran an online consultation about cycle lanes and infrastructure changes along the A660 from its junction with Shaw Lane to Leeds University. The online part of the consultation ran from the 30th January to the 5th March. I would be very grateful in connection with this consultation, if, under the terms of the Freedom of Information Act, you could let me know:

1. The number of individuals commenting who on the whole were favourable to the scheme.
  2. Their computer's IP address.
  3. Their server's IP address.
  4. The number of individuals commenting on the proposals who on the whole were unfavourable to the scheme
  5. Their computer's IP address.
  6. Their server's IP address."
6. On 16 March 2023, the complainant submitted another request on the same subject but with the following questions:
- "1. What steps were taken by either Commonplace or Connecting Leeds to prevent multiple responses by the same person or group of people?
  2. What steps were taken to prevent responses being made by bots?
  3. How many responses were made by one person, or one group of people?
  4. How many responses were made by bots?"
7. On 5 April 2023 the complainant submitted a further request:
- "Connecting Leeds ran a consultation from the 31st January to the 12th March. In connection with this, under the terms of the Freedom of Information Act, please could you let me know:
1. To which postcodes were leaflets delivered informing people about the consultation?
  2. How many leaflets were delivered to each postcode?
  3. On what dates were the leaflets delivered?"

8. On 14 April 2023 the Council provided the complainant with its response to the requests dated 15 and 16 March and 5 April 2023. The Council considered these requests as manifestly unreasonable under regulation 12(4)(b) of the EIR on the basis that they are vexatious in nature.
9. On the same day, the complainant acknowledged the Council's response. He expressed further concerns about the proposed changes regarding the A660 Cycleway Scheme and the consultation process, and asked the Council to reconsider its decision.
10. On the 11 May 2023 the Council responded to the request dated 16 March 2023, referring to its response of 14 April 2023 and also considered this request to be manifestly unreasonable. On 21 May 2023 the complainant requested an internal review of the Council's response. The Council responded on 1 June 2023, and upheld its position.
11. During the Commissioner's investigation, the Council was asked about an internal review response to the three requests dated 13 and 15 March and 5 April 2023. The Council explained that the review sent on 1 June 2023 also covered these requests, and apologised for not making it clear within the review response that the outcome also applied to the four requests detailed in this decision notice.

## **Reasons for decision**

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12. This reasoning covers whether the Council is entitled to rely on regulation 12(4)(b) of EIR to refuse to provide the requested information.

### **Regulation 12(4)(b) – manifestly unreasonable request**

13. Regulation 12(4)(b) of the EIR states that a public authority may refuse to disclose information to the extent that the request is manifestly unreasonable.
14. The information in this case relates to a cycle lane and infrastructure changes along a specific road. The Council's actions in this respect would have an effect on the environment. The Commissioner therefore agrees that the requested information is environmental and the Council was right to handle the request under the EIR.
15. The Council stated that due to the complainant's previous requests concerning this consultation, it is necessary to consider the recent request as manifestly unreasonable under regulation 12(4)(b) of the EIR.

16. The Council reported there had been seven information requests submitted by the complainant in respect of matters relating to the A660 consultation process. It said these requests contained a total of over 50 separate queries from the complainant.
17. The Council responded to four of these requests and also to the complainant's general correspondence before considering it was necessary to apply regulation 12(4)(b) of EIR to the repeated requests it had received. It said that the complainant's correspondence raised a number of concerns about the Council's utilisation of 'Commonplace' (the Council's consultation partner), and appeared to make suggestions that the Council had not been open, honest and transparent about the consultation. The Council said it responded to these concerns and addressed the queries which the complainant had raised; however, it said this generated further queries and accusations.
18. The Council informed the Commissioner that an in-person meeting was offered to the complainant in February 2023. However, it said the nature of the complainant's correspondence with the Council at this point in time, had reached a point where it was determined that such a meeting would not serve to resolve his concerns. The Council said the complainant raised the same repeated issues to the Council's Chief Executive, the Leader of the Council and other Councillors. The complainant also made a deputation to Full Council on the matter of the A660 consultation, and he repeated many of the same addressed issues which then required Council officers to produce further replies to the complainant.
19. Due to the persistent nature of the complainant's correspondence, the Council subsequently applied regulation 12(4)(b) of EIR to the requests. The Council argued that the repeated requests were trying to make allegations as to the validity of the consultation process, and on the basis that the complainant disagreed with the findings. The Council stated this was having a serious detrimental impact on officers being able to undertake their core functions.
20. The Council said in light of the fact it had already responded to four of the seven information requests submitted by the complainant (since 13 February 2023), and having responded to him outside of this process, it deemed his further requests as manifestly unreasonable on the basis that these requests are vexatious in nature.

21. The Council referred the complainant to the Commissioner's guidance<sup>1</sup> on vexatious requests and set out the indicators which it believed were applicable:
  - Unfounded accusations
  - Burden – number/pattern of request making
  - Lack of value and purpose of the request (re-opening issues that have been addressed)
22. The Council said it is aware the public interest should be considered when applying any exception under the Regulations and that there is a presumption in favour of disclosure in this regard.
23. The Council supplied the Commissioner with two bundles of emails to evidence the Council's contact with the complainant. One set of emails consisted of the complainant's request history and the second, a collection of his other correspondence with the Council on these matters. The Council noted to the Commissioner that this may not be exhaustive.

### **The complainant's arguments**

24. The complainant expressed his concern on what the Council is proposing and the effect it would have to the park and park users, he said as a result he made eight (not seven) FOI requests to the Council. The complainant believes the proposed changes would be a threat to the health of the local community, for example, resulting in queuing traffic on the A660 where it crosses Woodhouse Moor. He said in addition to this, "the proposals would create floating bus stops and a cycle lane shared with pedestrians, both of which are considered to be dangerous."
25. The complainant also highlighted the fact that the proposals would result in traffic being stacked on the dual carriageway that crosses the park, and "the fumes emitted from the idling engines of this traffic would cause the air quality on the park to be even worse than it currently is." The complainant disputes the Council's view that his requests are vexatious and said he made the requests in the public interest.

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<sup>1</sup> <https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/dealing-with-vexatious-requests-section-14/>

## **The Commissioner's decision**

26. The Commissioner considered the arguments by both the complainant and the Council. He acknowledges the complainant's objection against the introduction of a cycle lane on the road in question, and understands his concerns about this. The Commissioner also recognises that the Council has tried to be transparent in publicising the proposals and undertaking the consultation process. He also notes the Council had previously met with the complainant (and the local residents' group) on a few occasions whilst proposals were being brought forward.
27. The Commissioner is aware of the Council's numerous responses to the complainant's concerns and although the Council had addressed these with the complainant, it did not reduce the amount of correspondence received. The seven information requests to the Council is a considerable amount, and taking into account the collection of other correspondence from the complainant (relating to the same subject), the Commissioner accepts this would create an additional amount of work and would have a detrimental impact on Council officers being able to undertake their core functions. He also acknowledges that responding to all the complainant's concerns and addressing the queries he raised, generates further questions and accusations from the complainant.
28. The Commissioner is satisfied that the exception at regulation 12(4)(b) is engaged for the four requests detailed in this decision notice and will go on to consider the public interest test required at regulation 12(1)(b) of the EIR.

## **Public interest test**

29. The test is whether, in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
30. There will always be some public interest in disclosure to promote transparency and accountability of public authorities, greater public awareness and understanding of environmental matters, a free exchange of views, and more effective public participation, all of which ultimately contribute to a better environment.
31. The Council recognises there is a public interest in the A660 Cycleway Scheme, which would include the consultation process. However, the Council said it is "not of the view that these particular requests carry with them any significant public interest." It stated that it had sought to be as transparent as possible in both publicising the proposals and undertaking the consultation process.

32. Furthermore, the Council said it provided responses to many of the complainant's questions regarding this process, but these responses had led to further requests being made based on what the Council believes to be unfounded accusations. The Council argued that providing responses to information requests about the accusations would not serve to improve the public's access to environmental decision-making or provide the complainant reassurance.

### **Conclusion**

33. For the reasons above, the Commissioner's view in this case is that the balance of the public interests favours the maintenance of the exception. The Commissioner's decision, whilst informed by the presumption provided for in regulation 12(2) is regulation 12(4)(b) of the EIR was applied correctly.



## Right of appeal

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34. 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: 0300 1234504

Fax: 0116 249 4253

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)

35. 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.
36. 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

**Joanna Marshall**  
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