

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 20 April 2015

**Public Authority:** City of York Council  
**Address:** West Offices  
Station Rise  
York  
YO1 6GA

**Decision (including any steps ordered)**

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1. The complainant has requested information about a development plan for Earswick, York.
2. The Commissioner's decision is that City of York Council has breached regulation 5(1) and regulation 5(2) of the EIR because it did not respond to the request within the timescale for compliance.
3. City of York Council has now provided the complainant with a response to her request and the Commissioner therefore does not require it to take any further steps.

**Request and response**

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4. On 22 December 2014, the complainant wrote to City of York Council ('the Council') and requested information in the following terms:

*"I therefore request the Council provide me with the following information:*

1. *Copies of all correspondence, e-mails, minutes of meetings, transcripts of telephone conversations that the Get York Building Board have had with the Earswick site promoter and the representatives of Fabrick Housing/Thirteen Group/Tees Valley Housing, as referred to in the Cabinet Members response.*

2. *Copies of all correspondence, e-mails, minutes of meetings, transcripts of telephone conversations that the City Of York Council have had at anytime with the Homes and Communities Agency in respect of the Earswick site as referred to in the Cabinet Members response.*
3. *Copies of all correspondence, e-mails, minutes of meetings, transcripts of telephone conversations that the City Of York Council have had with the Leeds City Region Local Enterprise Partnership in respect of the Earswick site.*
4. *Copies of all correspondence, e-mails, minutes of meetings, transcripts of telephone conversations that the City Of York Council have had with the York, North Yorkshire and East Riding Local Enterprise Partnership in respect of the Earswick site."*
5. The Council wrote to the complainant on 12 January 2015 and told her that it would be unlikely to be in a position to respond within 20 working days, as required under the EIR. It said that this was because of the complexity of the task, and volume of work involved. The Council said it would endeavour to respond to the request by 18 February.

## **Scope of the case**

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6. The complainant contacted the Commissioner 2 February 2015 to complain about the way her request for information had been handled.
7. On 17 February the Commissioner wrote to the Council and asked it to respond to the complainant's request within 10 working days.
8. The complainant confirmed to the Commissioner on 5 March and again on 16 March that she had not received a response to her request. The Commissioner therefore focussed his investigation on whether City of York Council complied with regulation 5 of the EIR.

## **Reasons for decision**

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### **Regulation 2 – is the requested information environmental information?**

9. Information is 'environmental information' and must be considered for disclosure under the terms of the EIR rather than the FOIA if it meets the definition set out in regulation 2(1)(a) to 2(1)(f) of the EIR.
10. The Commissioner considers the information in this case can be classed as environmental information, as defined in regulation 2(1)(c) of the

EIR. This says that any information on measures such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements or factors of the environment listed in regulation 2 will be environmental information. One of the elements listed is land.

11. The request is for information relating to housing development plans for an area of York. The Commissioner is therefore satisfied that, as this request is for information concerning the use of land, it falls under the EIR.

### **Regulation 5**

12. Regulation 5(1) of the EIR says that:

*"Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request."*

13. Regulation 5(2) of the EIR says 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."*

14. In this case, the Council did not make available to the complainant any relevant information that it held within 20 working days of the request, or by the extended deadline that it initially suggested. The Council confirmed to the Commissioner on 20 March that it had yet to provide the complainant with a response. Following intervention from the Commissioner, the Council finally provided the complainant with a response on 25 March 2015, more than 60 working days after they had submitted their request for information.
15. The Commissioner must therefore find that City of York Council has breached regulation 5(1) and 5(2) of the EIR.

## Right of appeal

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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: 0300 1234504

Fax: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

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

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