

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 17 July 2023

Public Authority: Nottingham City Council

Address: Loxley House
Station Street
Nottingham
NG2 2NG

Decision (including any steps ordered)

1. The complainant requested information relating to correspondence about noise complaints for two establishments. By the date of this notice, Nottingham City Council ("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. On 20 January 2023, the complainant made the following request for information to the Council:

"Furthermore, we seek further information and clarification from the local authority on the following points –

- All copies of of complaints received against the Popworld/Huddl use
 - Information and copies of any correspondence, or action taken by the LPA to investigate these complaints
 - Particulars as to how, if at all, those complaints were resolved
 - All copies of complaints received against the Novaheights subject planning application 22/01086/PFUL3
 - Information on and copies of any action or correspondence the local authority has taken thus far in investigating the Novaheights complaints against the unlawful sui generis use of the premises by Stonegate Pub Company Ltd
 - Information on and copies of any correspondence/action the local authority has taken in investigating the Novaheights complaint to environmental health regarding the statutory noise nuisance from a licensing perspective
 - A Copy of the licensed premises noise management plan at 6-9 The Poultry"
6. The Council acknowledged the request on 23 January 2023. To date, a substantive response to the request has not been issued.

Reasons for decision

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

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

8. 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.”

9. The Commissioner contacted the Council on 27 June 2023 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this intervention the Council has failed to respond to the complainant.
10. 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.

Right of appeal

11. 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

12. 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.
13. 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