

EIR Reg 2 – Definitions: public authorities

Network Rail Limited v IC & Network Rail Infrastructure Limited, Friends of the Earth and others
EA/2006/0061 and 0062
17th July 2007

Cases:

Aston Cantlow v Walbrook [2004] 1 A.C.546; Y.L. v Birmingham City Council [2007] UKHL 27
R (on application of Heather) v Leonard Cheshire Homes [200] 2 All E.R. 936
Poplar Housing and Regeneration Community Association Ltd. v Donohue [2002] Q.B 48
Griffin v S.W. Water Services [1995] IRLR 15; Cameron v Network Rail Infrastructure Ltd.
[2007] 1 WLR 163
Port of London Authority v IC [2007] UKIT EA_2006_0083

Facts

Two requests were made for information to Network Rail Limited (NRL). These were treated as requests for Environmental Information under EIR 2004. NRL denied both requests stating that it was not a public authority under the definition of Reg 2(2).

The IC agreed the request fell under EIR and held that NRL was a public authority for the purposes of EIR and that the information sought was Environmental Information under Reg 2(1)

Findings

The Tribunal referred to the case of *Griffin v South West Water Services Limited [1995] IRLR 15 (ChD)*[122 – 123] in order to decide whether NRL was in fact a public administrative authority. They held that even if NRL were a body that carried out public functions, it was not a body that carried out public administrative functions.

The Tribunal then considered whether NRL was a public authority at all. Due to the factors such as the fact that NRL is under no government influence or control with regard to appointments of directors; its powers are not statutory; if they did not perform their functions they would be performed by another similar body but not by central government, the Tribunal found that NRL was not a public authority at all. Therefore, NRL was not a public authority within the meaning of EIR Reg 2(2) and so the IC's decision notices were invalid.

Conclusion

The appeal was therefore allowed.

Observations

The Tribunal observed that NRL has a significant impact on the daily lives of people and includes “many sites of great environmental, geological, historical and architectural importance” as well as much contaminated land. They commented that if their decision is correct, NRL has no obligation to provide information in accordance with EIR. Therefore they recommended DEFRA or the Department of Transport may wish to consider that NRL be brought within EIR so that it is required to provide environmental information as the current situation is unsatisfactory.