

EIR Reg 5(1) – Request for information

EIR Reg 6(1) – Format and means of communication

Jeffrey Perrins v IC & Wolverhampton City Council

EA/2006/0038

9th January 2007

Cases:

Facts

The Appellant, a local authority tenant, sought information about the re-alignment of boundaries of individual properties on the local authority's estate. The information requested related to the history of the re-alignment and the criteria that were applied in determining the boundaries. The local authority claimed that it did not retain any historical material and the IC agreed that this was the case.

Findings

Historical Data

By the time the appeal came to be heard the Appellant had himself discovered some historical material in the local authority's archives. The IC conceded that his finding on this issue could not therefore stand, but argued that information was publicly available and readily accessible to the Appellant for the purposes of Regulation 6(1) (b) of the EIR, and therefore the Council would not, in any event, have been required to provide it to the Appellant by other means. However the Tribunal did not accept the argument as Regulation 6 was only brought into play where the information had been requested in a particular form or format and the Public Authority declined to provide it in the format requested. In the event nothing hinged on the point, given that the Appellant's own research had brought to light such relevant material as appeared to continue in existence.

Criteria for decision-making

The local authority filed witness statement evidence to the effect that no criteria existed. The Tribunal expressed surprise that the Council did not apparently have any written guidance for its officers when determining boundary issues, or that none appear to have survived in its records, but accepted that, in the absence of either a challenge to the evidence or the presentation of any evidence to cast doubt on its accuracy or completeness, the Appellant had not made out any case to justify his unsubstantiated assertion that other material must exist.

The Tribunal rejected the Appellant's argument that each decision on the detailed boundary arrangements between properties must be supported by a specific law or regulation. They stated while the general powers of a local authority to hold and manage property will be regulated by law, it was left with a broad discretion on detailed arrangements such as those under consideration in the appeal.

Conclusion

The Appeal was dismissed although the Tribunal found that, given the Appellant's discovery of some relevant material in the archives, the Decision Notice had been defective in its finding that no information existed.

Observations

The Tribunal made it clear that it said nothing on what information a public authority should or should not hold; only that on the particular facts presented on the appeal it did not accept the Appellant's assertion that the Council had withheld information from him.