

EIR Reg 8 – charging

EIR Reg 9 – Advice and assistance

Keston Rambler's Association v IC & London Borough of Bromley

EA/2005/0024

26th October 2007

Cases:

Facts

On 24 January 2005 the Appellants made an information request to the London Borough of Bromley in relation to a definitive map modification order. A follow up letter indicated that the request was made under both FOIA and EIR, agreed the Council's copying charge, and asked for suitable dates and times for inspection of the information held by the Council's Legal & Democratic Services Department. A further follow up letter asked why dates and times for inspection had not been provided. The Council did not respond adequately, and the Association complained to the Information Commissioner. After payment of fees by the Association under protest, information was provided by the Council to the Association.

The IC considered that the request related to environmental information, and therefore considered the matter under the EIR. Following the provision of further documentation, the IC decided that the Association had been provided with all the information to which it was entitled and that no further information falling within the scope of the request was held by the Council.

Findings

The Tribunal held that the issue which required consideration was the substantive question whether the Council had withheld information which it held and which fell within the request. They noted that for this purpose it made no difference whether the matter fell within FOIA or EIR.

However, the Tribunal did make some observations on the interaction of EIR regulations 8 and 9. Regulation 8 entitles the public authority, subject to certain restrictions, to charge the applicant for making information available. Regulation 9 requires the public authority to provide advice and assistance to applicants and prospective applicants, so far as it would be reasonable to expect the authority to do so. Where the authority has collated the requested information, and offers to copy it in return for a fee, the duty of advice and assistance is likely to require the authority to offer the documents for inspection, so that the applicant can see them and decide whether he wants to go ahead with paying for copies, or whether he is satisfied with inspection of them.

This approach should avoid any sense of grievance arising from the copying of information that was not relevant to what the applicant was actually wanting.

Conclusion

The Tribunal allowed the appeal and held that the Council did not deal with the request in accordance with the requirements of EIR, in that it did not disclose all the documents which it held.