



**FIRST-TIER TRIBUNAL
GENERAL REGULATORY CHAMBER
Information Rights**

Tribunal Reference: EA/2013/0226
Appellant: Paul Keating
Respondent: The Information Commissioner
Second Respondent: Oxford City Council
Judge: NJ Warren
Member: H Fitzhugh
Member: P deWaal
Hearing Date: 3 February 2014
Decision Date: 14 February 2014

DECISION NOTICE

1. On 29 November 2012 Mr Keating asked Oxford City Council (Oxford) for copies of any correspondence received in relation to two planning applications that had been withdrawn. Oxford replied on 31 December 2012. Mr Keating complained to the ICO on the ground that Oxford did not respond to his request as soon as possible but purposely waited until the last day of the time limit. The ICO rejected the complaint and he now appeals to the Tribunal.
2. All parties have consented to us deciding the appeal without a hearing and we are satisfied that we can do so.
3. The request has been dealt with under the Environmental Information Regulations (EIR). It is unclear to us why EIR applies to the request rather than the Freedom of Information Act (FOIA) but in our view it would be disproportionate to delay our decision to receive submissions on that question.

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4. Under EIR the response to a request must be made “as soon as possible and no longer than 20 working days after the date of receipt”.
5. Under FOIA the time limit is similar except that “promptly” replaces “as soon as possible”.
6. Oxford say that each council department refers information requests to a specialist FOIA officer to ensure that its responses are consistent and comprehensive. There was a short delay before that officer could deal with Mr Keating’s request because of other work priorities. In particular the FOIA officer is also Oxford’s Emergency Planning Lead and was dealing with the flooding which affected the city in late November and December 2012. There were then staff absences in the lead up to the Christmas holidays combined with some sick absences. The Council’s offices were closed from 24 December to 29 December 2012.
7. In our judgement, whichever time limit applies, it is necessary to be realistic. Whilst both pieces of legislation contemplate a speedy response, the urgency intended is not such as to require a public authority to “drop everything” in order to reply.
8. Having looked at the circumstances of this case we are satisfied that the ICO reached the right conclusion under EIR; and that the result would be no different if the FOIA regime applied.

NJ Warren**Chamber President****Dated 14 February 2014**