

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 9 October 2013

Public Authority: Health and Safety Executive
Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant requested and received from the Health and Safety Executive (HSE) various information on the 'safety case' prepared and submitted to it by Total relating to the Elgin (gas/oil) Platform in the North Sea.
2. The Commissioner's decision is that the HSE failed to conduct an internal review within the time limit and breached Regulation 11(4) of the EIR.
3. The Commissioner does not require the HSE to take any steps.

Request and response

4. On 13 March 2013 the complainant wrote to the HSE and requested information in the following terms:

'Could I please have a copy of:
 1. Revised Elgin safety Case – Part 4
 2. Revised Elgin safety Case – Part 5.'
5. The HSE responded on 8 April 2013. It stated that it was withholding the requested information under Regulation 12(5)(a) of the EIR (national security and public safety).

6. On the 10 April 2013 the complainant wrote to the HSE and requested an internal review as he was dissatisfied with its response.
7. On 17 April 2013 the complainant wrote to the HSE again requesting information on the progress of his internal review application.
8. The HSE responded on 17 April 2013 and stated that in accordance with the Commissioner's guidance it would complete the internal review as soon as possible and in any event no later than 40 working days after the date of its receipt. On this basis it said that it would respond as soon as possible and no later than 7 June 2013.
9. On 24 May 2013 the complainant wrote to the HSE in relation to his internal review request. The HSE replied the same day confirming that it would respond within the required deadline date of 7 June 2013.
10. On 4 June 2013 the HSE wrote to the complainant stating that it needed to extend the response deadline date by a further 20 working days until 5 July 2013.
11. On 5 July 2013 the HSE completed its internal review and disclosed the requested information to the complainant with a small number of redactions.

Scope of the case

12. The complainant contacted the Commissioner on various dates in 2013 to complain about the way his request for information had been handled. In his communication dated 9 July 2013 he indicated his satisfaction with the information which had been disclosed by the HSE but asked the Commissioner to take action against the HSE for failing to comply with the 40 working day time limit for carrying out the internal review.
13. On 24 September 2013 the Commissioner wrote to the complainant stating that he would draft a Decision Notice recording the HSE's delay in carrying out the internal review under the EIR. The complaint confirmed his agreement to this course of action in his response dated 24 September 2013.
14. The scope of the Commissioner's investigation in this case is therefore limited to the HSE's delay in carrying out the internal review.

Reasons for decision

The Environmental Information Regulations 2004 (the EIR)

15. The first question for the Commissioner to consider is whether the information requested is 'environmental' within the scope of the EIR.
16. The Commissioner notes that the HSE has dealt with the complainant's request under the EIR.

Regulation 2(1) of the EIR

17. Regulation 2(1) of the EIR defines in detail what is meant by 'environmental information'.
18. The Commissioner is satisfied that the information requested is 'environmental' within the meaning of the Regulation 2(1)(c) and 2(1)(d) EIR.

Regulation 11 – Representations and reconsideration

19. Under Regulation 11 of the EIR, any public authority receiving representations from a complainant regarding the handling of a request for information should conduct an "internal review". Internal reviews should consist of a reconsideration of the public authority's handling of the request and the outcome of the review should be sent to the complainant as soon as possible and no later than 40 working days after representations were received.
20. In this instance the complainant requested an internal review on 10 April 2013 and the HSE responded some 60 working days later on 5 July 2013.
21. The Commissioner has therefore concluded that the HSE failed to respond to the request for an internal review within the statutory time limit and has, therefore, breached regulation 11(4) of the EIR.

Right of appeal

22. 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: 0300 1234504

Fax: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

23. 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.
24. 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

**Rachael Cragg
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