

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 10 November 2015

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

Decision (including any steps ordered)

1. The complainant requested information about a tree felling matter.
2. The Commissioner's decision is that the Health and Safety Executive (HSE) breached regulation 5(2) of the EIR because it did not respond within the 20 working days that is a requirement of the Regulations.
3. The HSE has now provided a response and the Commissioner does not require it to take any steps.

Request and response

4. On 10 February, the complainant wrote to the HSE and requested information in the following terms:

"Can you provide photographic evidence of the inspector standing within the fall of the trees that do not pose a threat and I will forget the whole thing until someone gets killed or maimed or experiences damage to their property. I would also like the name of the inspector for my records whom seems to be top secret and untouchable and above the law."

In the course of correspondence with the HSE, on 27 February the complainant requested the following:

"Can I Under the freedom of information act 2000 request to see all correspondence regarding this matter within the next 20 working days."

5. The HSE did not provide a response to either request.

Scope of the case

6. The complainant contacted the Commissioner on 4 August to complain about the way his requests for information had been handled.
7. The Commissioner has first considered whether the requests are for environmental information that should be handled under the Environmental Information Regulations, rather than the FOIA. He then considered whether the HSE has met the timescale for compliance under the appropriate access regime.

Reasons for decision

Is the information environmental information?

8. Information is 'environmental information' and must be considered for disclosure under the terms of the EIR rather than the FOIA if it meets the definition set out in regulation 2(1)(a) to 2(1)(f) of the EIR.
9. The Commissioner considers the information in this case can be broadly classed as environmental information, as defined in regulation 2(1)(c) of the EIR. This says that any information on measures such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements or factors of the environment listed in regulation 2(a) will be environmental information. Two of the elements listed under 2(a) are land and landscape and natural sites.
10. The request is for information relating to the felling of trees. The Commissioner is therefore satisfied that, as the request is for information concerning the use of land and landscape and natural sites, it falls under the EIR.

Regulation 5 – duty to make available environmental information on request

11. Regulation 5(1) of the EIR says that a public authority that holds environmental information must make it available on request.

12. Regulation 5(2) says that the authority must make the information available as soon as possible and no later than 20 working days after the date of receipt of the request.
13. The complainant submitted his requests on 10 and 27 February. Following the Commissioner's intervention, the HSE provided a response to both requests on 25 September, which is a clear breach of regulation 5(2). In its response the HSE apologised for the delay in responding and explained that this was due to a breakdown in communication between staff who were dealing with the requests. The Commissioner notes that the HSE said it had taken steps to ensure a similar situation does not occur again.

Right of appeal

14. 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: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

15. 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.
16. 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

Pamela Clements
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Wycliffe House
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Wilmslow
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SK9 5AF