

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

**Date:** 22 July 2015

**Public Authority:** Cheshire West and Chester Council  
**Address:** HQ Building  
Nicholas Street  
Chester  
CH1 2NP

**Decision (including any steps ordered)**

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1. The complainant requested information from Cheshire West and Chester Council ("the council") relating to a school. The council took longer than 20 working days to respond to the requests. The Commissioner's decision is that some of the information requested fell within the scope of the Environmental Information Regulations 2004 ("the EIR"). The Commissioner found that the council breached its obligation under section 10 of the Freedom of Information Act 2000 ("the FOIA") to respond within 20 working days. It also breached regulation 14(2) of the EIR for the failure to rely on the exception under regulation 12(4)(a), which applies when information is not held, within 20 working days. There are no steps to take.

**Request and response**

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2. On 24 April 2015, the complainant requested information from the council in the following terms:

*"On the 10<sup>th</sup> November 2014 the CWaC Governing Body of Mill View Primary School met to a) review the responses it received during the consultation process for the proposed conversion from a CWaC school to an independent academy and b) vote on the proposed conversion to an academy.*

*Please provide:*

- *A copy of the minutes of the governors meeting of 10<sup>th</sup> November 2014*
  - *A copy of the results of the governors vote on the subject of whether or not the school should convert to an academy*
  - *Copies of any and all minutes governors meetings, prior to 10<sup>th</sup> November 2014, where the proposed conversion was and agenda [sic] item and/or discussed by the school governors”.*
3. On the same day, the complainant made another request for information in the following terms:

*“My request relates to these statements made by [name]:*

*From the outset of the project a ‘Forest School’ committee was set up to oversee the project and report back to Governors. The committee was made up of staff, parents and a Governor (A community Governor with lead for ‘Outlook Link’.*

*The School provided many examples of feedback to Governor meetings (full and sub-committees), a timeline of events and minutes from the Forest School committee themselves. There have also been press releases.*

*I hereby request copies of all of the above information that was provided to [name]:*

- *Copies of all feedback and/or minutes given to and/or minutes of Governor meetings in relation to the Forest School Project*
  - *Minutes of all minutes of Forest School Meetings*
  - *The timeline of events”*
4. The council acknowledged the requests on 29 April 2015. It said that they had been logged with the same reference number 2975038.
5. The council responded to the requests on 10 June 2015. The council said that the information was not held and it advised the complainant to contact the school directly.
6. The complainant requested an internal review on 11 June 2015. The council has not yet completed an internal review.

## **Scope of the case**

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7. The complainant made an eligible complaint to the Commissioner on 9 June 2015. He complained that the council had not responded within 20 working days.

## **Reasons for decision**

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### **Environmental Information Regulations 2004**

8. Under regulation 2(1)(c) of the EIR, any information relating to activities affecting or likely to affect the elements or factors of the environment is "environmental information" for the purposes of the EIR. Requests falling within the scope of the EIR cannot be considered under the FOIA.
9. In this case, the council dealt with the second request made on 24 April 2015 under the FOIA. However, this request concerns information concerning the outdoor learning environment at Mill View Primary School known as "Forest School". The council explained to the Commissioner that the project referred to in the request involved the erection of temporary structures. The Commissioner has not seen the information. At the time of writing this notice, the council is disputing that the information is held by it and it has not yet completed its internal review. However, given the description provided by the council and the nature of the "Forest School", the Commissioner considers that it is likely that the information would relate to activities affecting or likely to affect the land bringing it under the terms of the EIR.

### **Section 1 of the FOIA and regulation 14(2)**

10. Section 1 of the FOIA provides a general right of access to recorded information held by public authorities. Under section 10, public authorities must respond to requests as soon as possible and within 20 working days. In this case, the complainant requested information on 24 April 2015 but the council did not respond until 10 June 2015. This was a breach of 10 section of the FOIA.
11. Regulation 5(1) provides a general right of access to recorded environmental information held by public authorities. Unlike the FOIA, stating that information is not held, as the council did in this case, is a refusal under the EIR. The relevant exception is provided by regulation 12(4)(a). The council should have cited this exception when it responded to the request about the forest school. Not doing so was a breach of regulation 14(2) of the EIR, which provides that a refusal should be made as soon as possible and within 20 working days.

## Right of appeal

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12. 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](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

13. 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.
14. 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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**