

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

**Date:** 25 July 2017

**Public Authority:** Homes and Communities Agency  
**Address:** Fry Building,  
2 Marsham Street,  
London,  
SW1P 4DF

**Decision (including any steps ordered)**

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1. The complainant requested information relating to correspondence, communication, proposals, and reports, both internal and external, between English Partnerships and the Homes and Communities Agency ("the authority") to the present day. The request concerned land owned either by a particular company or by the authority. The authority responded to the request and provided some information but withheld other information using exceptions under the Environmental Information Regulations 2004 ("the EIR"), however it took longer than 20 working days to do so. The Commissioner's decision is that the authority breached regulation 5(2) of the EIR for failing to respond within 20 working days and regulation 14(2) of the EIR because it did not provide a refusal notice within 20 working days. There are no steps to take.

**Request and response**

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2. On 15 November 2016, the complainant wrote to the authority and requested information in the following terms:

*"We formally request copies of all correspondence / communication and proposals, both internal and external, between English Partnerships / Homes and Communities Agency and all parties to present day in relation to the following:*

*1. Land owned by [company name] at Canada Dock West – Land at Derby Road / Bankfield St Liverpool 20.*

*2. Land owned by HCA at Canada Dock West – Land at Derby Road / Bankfield St Liverpool 20.*

*We also formally request copies of any reports, internal and external, in relation to the above to present day."*

3. The authority apologised to the complainant for the delay in providing a response on numerous occasions between 13 December 16 and 5 April 2017. The authority provided a response to the request on 4 July 17 and explained that the delay was due to stretched resources, the broad scope of the request and the volume of redactions required.

### **Scope of the case**

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4. The complainant initially contacted the Commissioner on 2 May 2017 to complain that he had not received a response to his information request. The authority subsequently provided the information on 4 July 2017. The complainant expressed dissatisfaction to the Commissioner about the length of time to send the documentation and the large amount of redactions. The complainant also suggested that it would be appropriate in the circumstances to provide more current information outside the scope of the request given the significant delay.
5. For clarity, the complainant has been advised to ask the authority to carry out an internal review in relation to the level of redaction and to make a new request for the more recent information. These issues are not considered further in this decision notice.

### **Reasons for decision**

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#### **Environmental Information**

6. Under regulation 2(1)(c) of the EIR any information on activities affecting or likely to affect the elements and factors of the environment will be environmental information.
7. The authority has explained to the Commissioner that it considers that the request should be dealt with under the terms of the EIR. It said that the information requested relates to land and matters that would or could alter the state of the land. In view of this, the Commissioner agrees that the request should be handled under the EIR.

### **Regulation 5(2)**

8. Regulation 5(2) of the EIR states that information shall be made available "*as soon as possible and no later than 20 working days after the date of the receipt of the request.*"
9. The authority took longer than 20 working days to respond to the request on this occasion. That was a breach of regulation 5(2) of the EIR.

### **Regulation 14(2)**

10. A refusal to provide information must comply with the obligations under regulation 14(1) of the EIR. Regulation 14(2) provides that, "*The refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request.*"
11. In this case, the authority did not provide a refusal notice within 20 working days. That was a breach of regulation 14(2).

### **Other Matters**

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12. The complainant expressed concern about the significant delay in this case and was also concerned that it may be repeated in relation to future requests. The Commissioner notes that the authority has acknowledged and apologised for the delay in its response. It has explained to the complainant that his request was received at a time where the Information Access team's resources were significantly stretched. It also said that the nature of the request was particularly time consuming.
13. The Commissioner notes that the authority attempted to keep the complainant updated as matters progressed and she trusts that the authority will make improvements in the future to ensure that it is able to respond to requests within the statutory time frame.

## Right of appeal

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

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

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