

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 20 February 2018

**Public Authority:** Carmarthenshire County Council  
**Address:** County Hall  
Carmarthen  
Carmarthenshire  
United Kingdom

#### **Decision (including any steps ordered)**

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1. On 28 April 2017 the complainant made a request about correspondence, files, meetings, working methods and employees for the period 1 January 1998 to 13 March 2015 concerning the Council's planning compliance with National Grid defined safety protocols. The Council responded to the request on 14 June 2017 with some information and issued a refusal notice for the remainder. On 1 December 2017 the complainant expressed dissatisfaction with the response and after receiving no reply from the Council, on 8 January 2018 formally requested a review.
2. The complainant requested that the Commissioner issue a decision notice on the matter as he believed that the Council had breached regulation 11(4) of the EIR by failing to complete a review of its response within 40 working days. However, regulation 11(2) requires an applicant requesting information under EIR to contact the public authority within 40 working days of believing that the request has not been complied with. As 6 months has elapsed between the Council's response and the complainant's request for a review, the Commissioner cannot consider the matter under regulation 11(4).

## Request and response

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3. On 28 April 2017 the complainant requested information concerning the Council's planning compliance with National Grid defined safety protocols.
4. The Council responded on 14 June 2017 with some information and issued a refusal notice for the remainder on the basis it required clarification from the complainant. However it took longer than 20 working days for the Council to issue its response; this matter was dealt with by the Commissioner and a decision notice issued under FER0686271.
5. On 1 December 2017 the complainant responded to the Council's clarification questions and expressed dissatisfaction that some of his request had not been answered, and on 8 January 2018 formally requested a review of its entire response.

## Scope of the case

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6. The complainant contacted the Commissioner on 9 February 2018 regarding what he believed to be the Council's failure to respond within the statutory timescale for review and requested the Commissioner issues a decision notice.

## Reasons for decision

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### Regulation 11(2)

7. Regulation 11(2) of the EIR states:

*'Representations under paragraph (1) shall be made in writing to the public authority no later than 40 working days after the date on which the applicant believes that the public authority has failed to comply with the requirement.'*

8. The Council responded to the complainant's request on 14 June 2017. The complainant did not contact the Council until 1 December 2017 to express dissatisfaction with the response, and again on 8 January 2018 to formally request a review. As both of these fall well beyond the 40 day limit stipulated in regulation 11(2), the complainant has failed to

comply with this requirement and therefore the Commissioner is unable consider a breach of regulation 11(4).

## Right of appeal

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9. 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)

10. 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.
11. 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**