

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

### **Decision notice**

**Date:** 5 July 2022

**Public Authority:** Warrington Borough Council

**Address:** East Annexe  
Town Hall  
Sankey Street  
Warrington  
WA1 1UH

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

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1. The complainant has requested information from Warrington Borough Council about the surveyor's findings regarding a collapsed wall, details of the creation of a nearby pedestrian crossing and of a road widening scheme.
2. The Commissioner's decision is that Warrington Borough Council ("the Council") has failed to carry out a reconsideration (internal review) of a response it provided, under the Environmental Information Regulations ("the EIR"), within 40 working days and has therefore breached Regulation 11 of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Reconsider how it responded to the original request and inform the complainant of the outcome of that reconsideration in accordance with Regulation 11 of the EIR.
4. The Council must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

## Request and response

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5. On 24 November 2021, the complainant wrote to the Council and requested information in the following terms:

"I would like details of your NON independent surveyor's findings as to the collapse of the said wall. [NAME REDACTED] I believe.

Secondly, the details of works carried out on the creation of a new pedestrian crossing immediately and adjacent to the collapsed wall (within 5 metres); the details of the contractor, what machinery was used and the specification and loadings. Also, as it appears you are in consultation with the Highways Dept, details of the road widening scheme and the specification of the wall which was constructed. I'd like to know what the load bearing calculations were and construction method used."

6. The Council responded to the request on 20 December 2021. It advised that the surveyor's report was still being completed and should be available by February 2022. It provided information sheets regarding the machinery that had been used. It advised that it did not hold the information requested about the road widening scheme and provided the contact details of National Highways.
7. The complainant requested a review on 25 February 2022, but the Council had not completed its review at the date of this notice.

## Scope of the case

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8. The complainant contacted the Commissioner on 7 January 2022 to complain about the way their request for information had been handled.
9. The Commissioner contacted the Council on 22 April 2022 to highlight the outstanding internal review and asked the Council to complete its reconsiderations within 10 working days.
10. Despite this intervention, the Council has failed to respond to the complainant.
11. The scope of the Commissioner's investigation is to determine whether the Council has complied with Regulation 11 of the EIR.
12. For the avoidance of doubt, the Commissioner has not yet considered and therefore takes no position on whether the Council was entitled to rely on the exception which it has done or whether it holds further information.

## Reasons for decision

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13. Regulation 11<sup>1</sup> of the EIR states that:

“(3) The public authority shall on receipt of the representations and free of charge—

(a) consider them and any supporting evidence produced by the applicant; and

(b) decide if it has complied with the requirement.

(4) A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations.”

14. From the evidence presented to the Commissioner in this case it is clear that, in failing to carry out an internal review within 40 working days, the Council has breached regulation 11 of the EIR.

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<sup>1</sup> <https://www.legislation.gov.uk/uksi/2004/3391/regulation/11>

## **Right of appeal**

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15. 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: 0203 936 8963

Fax: 0870 739 5836

Email: [grc@justice.gov.uk](mailto:grc@justice.gov.uk)

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

16. 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.
17. 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 .....**

**Michael Lea**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**