

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 11 May 2022

Public Authority: Governing Body of Ysgol Gyfun Gŵyr
Address: Chair of Governors
1 Talbot Street
Gowerton
Swansea
SA4 3DB

Decision (including any steps ordered)

1. The complainant requested information from Ysgol Gyfun Gwyr about the management of asbestos in school buildings. By the date of this notice Ysgol Gyfun Gŵyr had not issued a substantive response to this request.
2. The Commissioner's decision is that Ysgol Gyfun Gŵyr has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires Ysgol Gyfun Gŵyr to take the following step to ensure compliance with the legislation.
 - Ysgol Gyfun Gŵyr must provide a substantive response to the request in accordance with its obligations under the EIR.
4. Ysgol Gyfun Gŵyr 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

5. On 28 January 2022, the complainant wrote to Ysgol Gyfun Gŵyr and requested information in the following terms:

"I'm looking for information relating to the management of asbestos in your school buildings, per your duty under the Control of Asbestos Regulations 2012 and other primary legislation.

Please provide the following:

- 1) The School's completed Asbestos Management Assurance Process form, including the date it was submitted.
 - 2) The date and outcome of the last independent audit or inspection of the school's Asbestos Management Plan.
 - 3) The current Asbestos Management Plan, including its commencement date.
 - 4) Copies of all asbestos surveys/reports that have been undertaken for the School's buildings from 1990 to present.
 - 5) Details of any reported incidents of asbestos exposure in the School."
6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 8 April 2022 to complain about Ysgol Gyfun Gŵyr's failure to respond to this request.
8. The Commissioner contacted Ysgol Gyfun Gŵyr on 20 April 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Ysgol Gyfun Gŵyr wrote to the Commissioner on 9 May 2022 and explained that the local authority had provided to the complainant the requested information but it had not done so on behalf of Ysgol Gyfun Gŵyr. The complainant had made a similar request to both public authorities; a direct response from Ysgol Gyfun Gŵyr therefore remained outstanding.
10. Despite the Commissioner's intervention Ysgol Gyfun Gŵyr has failed to respond to the complainant.

11. The scope of this notice and the following analysis is to consider whether Ysgol Gyfun Gŵyr has complied with regulation 5(2) of the EIR.

Reasons for decision

12. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

13. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

14. From the evidence provided to the Commissioner in this case, it is clear that Ysgol Gyfun Gŵyr did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that Ysgol Gyfun Gŵyr has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

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

Website: 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
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Wycliffe House
Water Lane
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