

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 7 April 2022

Public Authority: The Health and Safety Executive

Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant requested information from the Health and Safety Executive (HSE) relating to a report on per- and polyfluoroalkyl substances. By the date of this notice the HSE had not issued a substantive response to this request.
2. The Commissioner's decision is that the HSE 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 the HSE to take the following steps to ensure compliance with the legislation.
 - The HSE must provide a substantive response to the request in accordance with its obligations under the EIR.
4. The HSE 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 25 January 2022, the complainant wrote to the HSE and requested information in the following terms:

"I'm writing to make a request using the Environmental Information Regulations 2004. Could I please have the following documents:

- Any reports, reviews or memos produced as a result of this review of the evidence around the risks of per- and polyfluoroalkyl substances (PFAS)

If my request is denied in whole or in part, I ask that you justify all deletions by reference to specific exemptions of the Regulations. I will also expect you to release all non-exempt material. I reserve the right to appeal your decision to withhold any information or to charge excessive fees.

I would be grateful if you could confirm in writing that you have received this request. I look forward to your response within 20 working days, as outlined by the statute."

6. The HSE wrote to the complainant on 26 January 2022 to acknowledge the request. By the date of this notice, the HSE has not provided the complainant with a substantive response to their request.

Scope of the case

7. The complainant contacted the Commissioner on 15 March 2022 to complain about HSE's failure to respond to their request.
8. The scope of this notice and the following analysis is to consider whether the HSE has complied with regulation 5(2) of the EIR.

Reasons for decision

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

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

10. 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."

11. On 23 March 2022 the Commissioner wrote to the HSE, reminding it of its responsibilities and asking it to provide a substantive response to the complainant's request within 10 working days.
12. Despite this intervention, the HSE has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the HSE did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the HSE 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

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

Website: 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

Michael Lea
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SK9 5AF