

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 23 January 2023

Public Authority: Portsmouth City Council
Address: Civic Offices
Guildhall Square
Portsmouth
Hampshire
PO1 2AL

Decision (including any steps ordered)

1. The complainant requested information from Portsmouth City Council ("the Council") about emails and responses relating to an EIR case to which the Council had recently responded. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner's decision is that the Council 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 Council to take the following step to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under 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

5. On 7 October 2022, the complainant, as part of a request for an internal review for a previous request, made the following further request for information to the Council:

“Can you please supply a copy of the e-mail sent to [redacted] & [redacted] advising them of [case reference number redacted] & their obligations in response to this request?

Can you please supply copies of the responses to [case reference number redacted] from [redacted] & [redacted] (including those confirming no material held)?”

6. The Council acknowledged the email containing the request on 19 October 2022 as a request for an internal review of the previous request. To date the Council has not acknowledged the request as a new request for information. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 11 December 2022 to complain about the Council’s failure to respond to this request.
8. The Commissioner contacted the Council on 19 December 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 15 working days.
9. Despite this intervention the Council has failed to respond to the complainant.
10. The scope of this notice and the following analysis is to consider whether the Council has complied with regulation 5(2) of the EIR.

Reasons for decision

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

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

12. 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."

13. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the Council 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-regulatorychamber

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