

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

### **Decision notice**

**Date:** 25 October 2023

**Public Authority:** Swindon Borough Council

**Address:** Civic Offices  
Euclid Street  
Swindon  
SN1 2JH

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

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1. The complainant requested information from Swindon Borough Council (the public authority). By the date of this notice the public authority had not issued a substantive response to this request.
2. The Commissioner's decision is that the public authority 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 the public authority to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations under the EIR.<sup>1</sup>
4. The public authority 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

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<sup>1</sup> The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)

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 4 July 2023, the complainant made the following request for information to the public authority:

"Please can you send me:

1) A copy of your current road maintenance policy relating to that road. Please send me the full policy, but this should include details of the intended frequency of road safety inspections, how these inspections should be conducted and the maximum time between identification of a defect and repairs being carried out.

2) A copy of the road repair history for that road over the past year. Again, please send me the full road repair history, but this should include:- dates of all safety inspections between 9th January 2023 to the period up to the 9th March 2023 - details of how safety inspections were undertaken (walked or driven, speed of inspection vehicle etc) - details of all carriageway defects identified, with description, date and time - details of how the authority handled these defects, what repairs were undertaken and the time between the identification of each defect and a repair being carried out.

Furthermore all public notifications of defects/potholes reported during this time scale."

## Reasons for decision

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

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

7. 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."

8. The Commissioner contacted the public authority on 18 September 2023 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this

intervention the public authority has failed to respond to the complainant.

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

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10. 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)

11. 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.
12. 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 .....**

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