

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

**Date:** 29 August 2024

**Public Authority:** Rhondda Cynon Taf County Borough Council  
**Address:** The Pavillions  
Cambrian Park  
Tonypany  
CF40 2XX

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

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1. The complainant sent a follow-on request for information regarding Waste Services overseen by Rhondda Cynon Taf County Borough Council. The Council stated it did not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the public authority has not complied with regulation 5(1) of the EIR because it has not considered whether information was held on its behalf.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
  - to conduct adequate searches of the Council's systems and documents to establish if the requested information is held and issue a fresh response in accordance with its obligations under the EIR.
  - Issue a fresh response, to the request, on the basis that information held by the Tomorrow Valley Group is also held on behalf of the public authority.
4. The public authority must take these steps within 30 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 Act and may be dealt with as a contempt of court.

## **Request and response**

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5. The complainant wrote to the public authority and requested information in the following terms:

“Please provide Copies of all correspondence between Cynon Valley Waste Disposal Company Limited, Amgen Rhondda Limited, Rhondda Cynon Taf Council and Biogen or Biogen Power Limited for the years 2013 and 2014.”

6. The Council responded on 11 April 2024 saying that there was no correspondence between these parties for the period referenced.

7. The Council confirmed its position on 29 May 2024 and said: “We reiterate that no correspondence is held between Cynon Valley Waste Disposal Company Limited, Amgen Rhondda Limited, RCTCBC and Biogen Power Limited for the period specified in your request i.e. 2013 and 2014.”

8. During the Commissioner’s investigation the Council wrote to the complainant on 14 June 2024 stating:

“As you may be aware Rhondda Cynon Taf (RCTCBC) Council was the lead authority for the Tomorrow’s Valley Waste Treatment Group, a partnership between Newport CC, Merthyr CBC and RCTCB. The group was tasked with the procurement and delivery of a long-term service solution for the recycling of municipal food waste. This work culminated in 2015 with the commissioning of the Bryn Pica Anaerobic Food Waste Treatment Plant, developed and operated by Biogen (Bryn Pica) Ltd.”

## **Reasons for decision**

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9. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request.

10. The Commissioner considers that the complainant’s request for information is unambiguous. It was for correspondence between the parties involved in the waste management project for a waste food digester at a specific site.

11. The Council considers having met the request by stating no information was held for the period of time referenced in the request, however, it failed to carry out adequate searches to establish if in fact any information was held regarding its involvement with the project stating no information was held.

12. The Commissioner is concerned that despite a number of attempts to clarify what information was held by the Council, it seemed unable to provide adequate reassurances it had carried out relevant processes to establish what if any information was held in scope of the request.
13. The Commissioner notes that the Council explained in response to a further request of 26 May 2024 that:

“Given the complexity of the project, and the development stages ongoing during your referenced time period, the Tomorrow’s Valley Project Team will have exchanged significant volumes of correspondence with Biogen.”
14. The Commissioner considers that the Council holds information at least to some extent for its own purposes, most significantly in relation to being the lead authority managing the project. It has failed to demonstrate adequately any search criteria used and why it relied upon the stance of no information held if later it has stated too much information was held.
15. Therefore, his decision is that on the balance of probabilities information is held by the Council and the Council is now required at paragraph 3 of this decision notice to conduct substantive searches for the requested information and issue a fresh response, on the basis that any information falling within the scope of the request is held by the Council for the purposes of the EIR.

### **Procedural matters**

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16. Under regulation 5(2) of the EIR, a public authority must make environmental information available as soon as possible and no later than 20 working days after the date of receipt of the request.
17. The complainant submitted their request in March 2024 and the public authority has not provided the requested information. Accordingly, the Commissioner finds that the public authority breached regulation 5(2).

## Right of appeal

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18. 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)

19. 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.
20. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Deirdre Collins**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**