

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 7 May 2024

Public Authority: Swindon Borough Council

Address: Civic Offices
Euclid Street
Swindon
SN1 2JH

Decision (including any steps ordered)

1. The complainant requested information about flood risk 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 it has dealt with as reference number FO1006694, in accordance with its obligations under the EIR.¹
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 Freedom of Information Act and may be dealt with as a contempt of court.

¹ 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](#)

Request and response

5. The complainant informed the Commissioner that they requested information from the public authority and had been provided with reference number FO1006694.
6. On 18 January 2024 the public authority responded to a follow-up email in the following terms:

"We apologise that you haven't received a response to your FOI request yet. I have contacted the relevant service area to remind them that it is overdue and will be back in touch with you when we have their response".
7. By the date of this decision notice, a response has not been provided.

Reasons for decision

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

"a public authority that holds environmental information shall make it available on request."
9. 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."
10. The Commissioner contacted the public authority on 25 March 2024 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.
11. 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

12. 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

13. 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.
14. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Roger Cawthorne
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