

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 5 October 2017

Public Authority: Warwick District Council

Address: Riverside House
Milverton Hill
Leamington Spa
Warwickshire
CV32 5HZ

Decision (including any steps ordered)

1. The complainant has requested information on a proposed new road from Warwick District Council (the Council). The Council refused to provide the requested information citing the exception at regulation 12(4)(d).
2. The Commissioner's decision is that regulation 12(4)(d) is engaged but, in the specific circumstances of this case, the public interest in disclosure of the requested information outweighs the public interest in maintaining the exception.
3. The Commissioner also finds that the Council did not make all information held falling within the scope of the request available to the complainant in response to his request and are therefore in breach of regulation 5(1).
4. She also finds the Council in breach of regulation 11(4) as it did not provide the complainant with the outcome of its internal review within the 40 working day statutory timeframe.
5. The Commissioner requires the public authority to provide the complainant with an unredacted copy of the requested information.
6. 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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

7. On 1 April 2016, the complainant wrote to the Council and requested information in the following terms:

“Under the provisions of the Section 5 of the Environmental Information Regulations, please provide all information that the council holds relating to such a potential new road development. This would include any reports, plans, cost-benefit analysis and possible route option information. This will include the documentation within which the claimed merits of such a road have been “identified”, and any evidence claimed to substantiate such merits. The information may be held independently by the council or will be included in communications to or from other public agencies.”

8. The Council responded on 29 April 2016 and confirmed that it held no information relating to reports, plans, cost-benefit analysis or route information. The Council confirmed that it did hold records of meetings attended by council officers with other authorities at which the road link was discussed. The Council withheld this information citing the exception at regulation 12(4)(d)¹, regulation 12(5)(e)² and regulation 12(5)(e)³. The Council confirmed that it considered the balance of the public interest lay in maintaining the exceptions.
9. The complainant requested an internal review on 17 May 2016.
10. The Council provided the complainant with the outcome of its internal review on 3 August 2016. It upheld its application of regulation 12(4)(d) but concluded that regulations 12(4)(e) and 12(5)(e) were incorrectly applied. The Council confirmed that it considered the balance of the public interest lay in maintaining the exception.

Background

11. At the time of the request, a proposal for a new road was being considered by multiple public authorities, including the Council. The

¹ the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data

² the request involves the disclosure of internal communications

³ the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest

complainant set out the context of his request by providing the Council with an agenda for a Council meeting which states: *"proposals should take account of the potential for a new road linking the A46 Stoneleigh junction with Kirby Corner and subsequently to the A452 or A45"*.

Scope of the case

12. The complainant contacted the Commissioner on 5 August 2016 to complain about the Council withholding the requested information and to dispute its reliance on regulation 12(4)(d) of the EIR.
13. Following the internal review and during the course of the Commissioner's investigation, the Council reviewed the withheld information and, due to the passage of time, disclosed the majority of the requested information. The Council redacted a small amount of information as it considered that, even in light of the passage of time, the information still engaged the exception at regulation 12(4)(d) and the public interest lay in maintaining the exception.
14. The complainant confirmed to the Commissioner that he wished to proceed with the investigation following disclosure of the majority of the requested information. The complainant also provided the Commissioner with a list of documents identified in the disclosed minutes as he considered these must also be held by the Council.
15. The Commissioner therefore considers the scope of the investigation to be whether the Council has correctly applied regulation 12(4)(d) to the redacted information and to determine whether, in the specific circumstances of this case, the public interest lies in maintaining the exception or disclosing the information. She will also consider whether the Council has made available all information held falling within the scope of the request.

Applicable legislation

16. As the request is for information relating to a proposed new road, the Commissioner considers that the withheld information is caught by the definition of environmental information at regulation 2(1)(c)⁴. The Council was therefore correct to handle the request under the terms of the EIR.

⁴ <http://www.legislation.gov.uk/ukxi/2004/3391/regulation/2/made>

Reasons for decision

Duty to make available environmental information on request

17. Regulation 5(1) of the EIR states:

Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request

18. The complainant has explained to the Commissioner that he considers the Council must hold further documents to those already provided by the Council.

19. The complainant provided the Commissioner with a list of documents named in the redacted minutes. The minutes are the records of meetings between various councils to which the Council sent a representative. The complainant also argued that the Council must hold further information in the form of emails and correspondence between the councils.

20. In scenarios where there is some dispute between the amount of information located by a public authority and the amount of information that a complainant believes might be held, the Commissioner – in accordance with a number of First-Tier Tribunal decisions – applies the civil standard of the balance of probabilities.

21. The Commissioner will consider the scope, quality and thoroughness of the searches performed, and whether the searches were appropriate and adequate. She will consider any other explanations provided by the public authority for why the information is not held. The Commissioner will also consider the arguments or evidence by the complainant as to why they consider the requested information must be held.

22. On receipt of the list of documents provided by the complainant, the Commissioner wrote to the Council to seek confirmation of whether the named documents were held. The Commissioner also requested confirmation of whether the Council held information further to that identified and provided.

23. The Council responded to the Commissioner and explained that it had undertaken fresh searches for the requested information with the provided list as a guide. It confirmed that it had located a report named "*Strategic Transport Assessment*" which was likely to be the document noted as "*WCC study for WDC*" in the disclosed minutes. The Council

confirmed that the report was available on the Council's website since the end of February or early March 2016.

24. The Council acknowledged that this report should have been included in its original response and this had been an oversight by the Council. The Council explained that it understood that the complainant had undertaken research on the matter and that a search on the Council's website for "*link road*" provides a link to this report. The Council explained that the complainant's initial request was very detailed and showed that a high level of research had been conducted before the request was submitted as he had a very good understanding of the proposed scheme.
25. The complainant was provided with a link to the above report by the Commissioner and he confirmed that he was not aware of the report prior to the Commissioner's communication.
26. The Commissioner returned to the Council to request further information regarding the searches it had undertaken and set out the detail she required. She also requested details of any processes or procedures the Council has regarding retaining information from external meetings.
27. The Council responded and explained that the request for information was passed to the Council's Deputy Chief Executive and Planning Policy Team. The Council explained that this was following an initial informal conversation to ensure the correct teams and individuals were passed the request. The Council explained that the Deputy Chief Executive co-ordinated the response with advice from its legal services team which included "*undertaking the appropriate searches in line with the guidance issued by the Commissioner*".
28. The Council confirmed that it did not have a formal process or procedure regarding information received from external sources. It explained that the retention of a document would depend on the nature of the meeting and the business need or other requirement to retain such materials. The Council set out that normal business practice would be to store the relevant documents, if they are required, on file for the relevant area of work.
29. The Council explained that the subject matter of the request is a Highways Authority area of work which for this area would be Warwickshire County Council's responsibility and not the Council's. The Council explained that while it would be informed of this project and how it relates to its own Local Plan, the key documentation and proposals would be held by Warwickshire County Council.

30. The Commissioner returned to the Council again and reiterated the level of detail she required when considering the searches undertaken by the Council. The Commissioner requested confirmation of the specific search terms used, why the Council considered these search terms were adequate and the departments the searches covered. The Commissioner also requested confirmation of what manual records were searched and what searches took place.
31. The Council responded and set out that the complainant had recently submitted a request which was very similar to the original request and, therefore, the Council had performed further searches for the requested information.
32. The Council confirmed that the request was handled by the Policy and Projects team with Development Service.
33. The Council explained that the two departments had a significant volume of work that required inspection as it formed part of the Council's emerging local plan. The Council explained that it had searched on appropriate terms such as "*A46 link road*" and this identified no information (with the exception of the Strategic Transport Assessment). The Council explained that the lack of information held was due to the proposals being at an early stage at the time of the request and the Council were not the lead authority on the project.
34. The Council confirmed that there were minimal searches required by the Deputy Chief Executive as his personal notes were held separately and therefore were easily retrievable.
35. The Council also explained that it had performed searches specific to the list of documents provided by the complainant. The Council explained that the officer who wrote the minutes was unable to recall the context of the named documents or what they refer to. The Council confirmed that it had used appropriate search terms, such as the specific name or parts of it, and were unable to identify any documents with the exception of the Strategic Transport Assessment.
36. The Council also explained that the Deputy Chief Executive and the Policy and Project Teams hold very little in manual form due to the requirement to publish information related to the Local Plan. The Council confirmed that the manual files were checked, in particular, those that are associated with the public inspection of the Local Plan. The information identified was hard copy versions of the information identified in its electronic searches and was created after the date of the request.

The Commissioner's position

37. The Commissioner must make her decision on the basis of the information provided to her. The Commissioner is disappointed that the arguments put forward by the Council were not of the standard she would expect for a case such as this. The Commissioner would like to make clear to the Council that where she asks for specific information such as search terms, she would expect a public authority to provide as much detail as possible.
38. The Commissioner acknowledges that the Council is relying on its officers' recollection of searches performed over 12 months ago. However, the Commissioner has a duty to perform a robust and thorough investigation into any complaint brought to her and it is the responsibility of a public authority to demonstrate to the Commissioner that it has acted in accordance with the appropriate legislation. Where a public authority is unable to locate evidence of the specific searches performed in response to a request for information, it should take all necessary steps to ensure the Commissioner is provided with evidence that no further information is held by the Council.
39. The Commissioner provided the Council with guidance, example decision notices and explanations of the details required, however, the Council has not provided detailed explanations of the searches undertaken or the search terms used.
40. As set out at paragraph 20, the Commissioner's decision is based on the balance of probabilities, taking into account the explanations provided by the public authority for why no further information is held and the reasons why the complainant believes further information must be held.
41. The Commissioner has considered the explanations provided regarding the reasons the Council does not hold further information, namely, that it was not actively involved in the preparation of materials or policy regarding the proposed new road at the time of the request.
42. The Commissioner also notes that although document names were noted in the minutes, the Council is unable to find any evidence that the documents were retained by the Council or, in fact, brought to the meetings for review.
43. The Commissioner considers that as there is no compelling evidence that further information is held, it would be disproportionate to return to the Council for further information regarding its searches. The Commissioner will therefore base her decision on the explanations provided as to why the information is unlikely to be held.

44. The Commissioner considers that, on balance of probabilities, the Council holds no further information to that identified.
45. The Commissioner considers that the Council did not, however, fulfil its obligations under regulation 5(1) as it did not make all information held available as it did not include the "*Strategic Transport Assessment*" report. The Commissioner notes the Council's explanation that the complainant had clearly undertaken research and was knowledgeable on the subject, however, the EIR are applicant and motive bind and the Council should provide the same response regardless of the applicant's prior knowledge.
46. The Commissioner does not require the Council to provide the complainant with the report as the complainant now has access via the link provided by the Commissioner. However, the Commissioner finds that the Council has breached regulation 5(1).

Regulation 12(4)(d): Material in the course of completion

47. Regulation 12(4)(d) provides that a public authority may refuse to disclose information to the extent that:

"the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data"

48. The exception is often engaged relatively easily since if the withheld information falls into one of the categories described above, then the exception is engaged. It is not necessary to show that the disclosure would have any adverse effect in order to engage the exception, however, any adverse effects of disclosure may be relevant when considering the balance of the public interest.
49. The Council has set out to the Commissioner that the withheld information comprises a single line from a set of notes taken by a council officer while attending a meeting with other public authorities.
50. The Council confirmed that it considered the withheld information to fall under the "*material in the course of completion*" limb of the exception.

Material in the course of completion

51. The Council explained to the Commissioner that the withheld information relates to a proposed project that was at the concept stage at the time of the request and work that had subsequently been undertaken was still in draft format at the date of the Council's submission.
52. The Council explained that it required a safe space in which to develop this proposal before public consultation. The Council confirmed that

information would be released into the public domain for consultation should the proposal be developed to a stage where the Council would wish to move forward with the proposal.

53. The Council cited the explanatory memorandum to the EIR (COM/2000/0402)⁵

It should also be acknowledged that public authorities should have the necessary space to think in private. To this end, public authorities will be entitled to refuse access if the request concerns material in the course of completion or internal communications. In each such case, the public interest served by the disclosure of such information should be taken into account.

54. The Council also quoted the Commissioner's comments at paragraph 52 of the decision notice for case FER0322910⁶ which states

"...the Commissioner places great importance on public authorities being afforded safe space (thinking space) and drafting space when considering whether, and on what terms, a venture should be entered into."

55. The complainant has set out to the Commissioner that he considers the exception is not engaged in relation to the withheld information.
56. The complainant explained that he considers the exception provided at regulation 12(4)(d) cannot be engaged in this case as the Council has based its decision on the stage of the project and not whether the material itself is incomplete.
57. The complainant raised concerns that the Council's interpretation of the exception would enable a public authority to keep information secret unless and until the project development reaches a stage of their choosing with the possibility that a public authority may refuse to disclose information even after construction has started.
58. The complainant acknowledged that public authorities do have a need for safe space and set out that he considered that this was allowed for by this exception in exceptional circumstances only. However, the

⁵ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52000PC0402&from=EN>

⁶ https://ico.org.uk/media/action-weve-taken/decision-notices/2011/635462/fer_0322910.pdf

complainant considers this safe space should be explicitly restricted by the requirement to interpret the exception narrowly.

59. The complainant also set out that he considered the interpretation of regulation 12(4)(d) given in the Commissioner's guidance⁷ is not substantiated in the legislation.
60. The Commissioner has considered the arguments submitted by the Council and complainant and her own guidance in considering whether the exception at regulation 12(4)(d) is engaged.
61. The Commissioner considers that the exception is engaged in this case. She considers that the redacted information relates to a proposal for which, at the time of the request, the Council was not yet at the decision making stage and was not certain that this proposal would progress beyond the concept stage. The Commissioner has also taken into account that the Council has disclosed information which it considers is no longer sensitive due to the passage of time and that the redacted information is still deemed sensitive following the same passage of time.
62. Regarding the complainant's arguments that "*material in the course of completion*" does not include unfinished projects and that the Commissioner's interpretation and guidance is not substantiated by legislation, the Commissioner's guidance on this matter is well-established and following the rulings of a number of tribunals and the proposal for the Direction on public access to environmental information as cited at paragraph 54.

Public interest test

63. Under regulation 12(1)(b), public authorities can only withhold information if in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information. Under regulation 12(2), a presumption in favour of disclosure must be applied to the consideration of the public interest.

Public interest arguments in favour of disclosure

64. The Council acknowledged that there is a public interest in ensuring the Council is transparent and fair in its processes. It also acknowledged that disclosure would allow the public the opportunity to scrutinise the

⁷ https://ico.org.uk/media/for-organisations/documents/1637/eir_material_in_the_course_of_completion.pdf

proposal for the potential scheme and accepted that under the EIR, a presumption in favour of disclosure should be applied unless there are justified reasons for not disclosing the information.

65. The complainant set out to the Commissioner that he considers that, due to the presumption in favour of disclosure, it should be normal and routine for public authorities to disclose information even if the exception can be engaged.
66. The complainant also considers that the public are being prevented from participating in the creation of the proposed plans at the earliest opportunity. The complainant considers that public scrutiny at the point of consultation is too late for the public to provide adequate input.

Public interest in maintaining the exception

67. The Council explained to the Commissioner that it required a safe space for the Council to make its decision. The Council explained that at the time of the request, officers were working on a potential scheme and needed space to explore various options, have free and frank discussions and formulate proposals for the public to consider.
68. The Council explained that the information may be subject to change as discussions were ongoing at the time of the request. The Council explained that if the information was disclosed to the public it could cause confusion if it was changed at a later date.
69. The Council also explained that it was mindful that releasing information that may change into the public domain could cause unnecessary concern and distress to residents that live near the potential scheme. The Council considers that disclosure could incorrectly blight properties and property prices.
70. The Council confirmed that information would be released to the public for consultation should the proposal be developed to an adequate stage.

The balance of the public interest

71. The Commissioner has given some weight to the general principles of achieving accountability and transparency through the disclosure of information held by public authorities.
72. Disclosure of information can assist the public in understanding the basis on which public authorities make their decisions and this, in turn, may help foster greater trust in public authorities.
73. The Commissioner also acknowledges that disclosure of information can lead to greater public participation in the public authority's decision

making processes, particularly through representations made to councillors by their constituents.

74. In this case, disclosure of the requested information may help the public understand some of the issues which are to be considered by the Council in response to the particular planning aspects of the new road project.
75. The Commissioner acknowledges the impact of the project on the adjacent properties, the local community and its possible impact on wildlife.
76. Regarding the Council's arguments that disclosure of the redacted information may result in confusion should the proposal change and properties may be blighted by the release of information relating to projects that are being considered, the Commissioner does not consider that this argument carries any significant weight in the circumstances of this case. It should generally be possible for a public authority to put disclosure into some form of context. The Council has not provided any explanation of why it would be difficult or would require disproportionate effort for it to correct any public misconceptions about the nature of the redacted information.
77. The Commissioner acknowledges that councils are under a duty to consider proposals for development and to manage their land and assets appropriately. As part of this process, plans and information must be drafted and correspondence must take place with relevant parties to identify and discuss options, draw up preliminary proposals and to discuss the viability of these proposals.
78. Having reviewed the withheld information and the Council's arguments in favour of maintaining the exception, it is not apparent how disclosure of the withheld information would impact the Council to the detriment of the project or the Council.
79. The Council has provided the Commissioner with generic 'safe space' arguments which appear to focus solely on the early stage of the project. The Council has not provided arguments regarding the specific circumstances of this case or the nature of the information.
80. The Council has also not provided any explanation or evidence of the specific nature of the detriment to it or to the project should it disclose the redacted information.
81. In the specific circumstances of this case, the Commissioner considers that the Council has not provided persuasive arguments that the balance of the public interest lies in maintaining the exception. She therefore

considers the balance of the public interest in disclosure of the redacted information outweighs the public interest in maintaining the exception.

82. The Commissioner requires the Council to provide the complainant with an unredacted copy of the requested information.

Regulation 14 and 11: Statutory timeframes

83. Regulation 14 of the EIR states:

"(1) If a request for environmental information is refused by a public authority under regulations 12(1) or 13(1), the refusal shall be made in writing and comply with the following provisions of this regulation.

(2) The refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request."

84. Regulation 11(4) of the EIR states:

"A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the date of receipt of the representations."

84. The complainant stated that he considers the Council has breached regulation 14 and 11 by not providing its responses *"as soon as possible"*.
85. The Commissioner recognises that although a request may appear to be simple to the applicant, the burden on a public authority may be such that it is not able to respond in a short period of time.
86. The First-Tier Tribunals states in case EA/2013/0226⁸:
- "7. In our judgement, whichever time limit applies, it is necessary to be realistic. Whilst both pieces of legislation contemplate a speedy response, the urgency intended is not such as to require a public authority to "drop everything" in order to reply"*.
87. Paragraph 37 of the Upper Tribunal decision *John v Information Commissioner and Ofsted* [2014] UKUT 0444 (AAC)⁹ considers the

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<http://informationrights.decisions.tribunals.gov.uk//DBFiles/Decision/i1208/014%20140214%20Decision.pdf>

requirement to respond “promptly” as required under section 10 of the Freedom of Information Act:

“The context of section 10(1) is concerned with time rather than attitude, although the latter can have an impact on the former. It is too demanding to expect a public authority to respond immediately. That would be unattainable. In the context, promptly is more akin to without delay. There are three factors that control the time that a public authority needs to respond. First, there are the resources available to deal with requests. This requires a balance between FOIA applications and the core business of the authority. Second, it may take time to discover whether the authority holds the information requested and, if it does, to extract it and present it in the appropriate form. Third, it may take time to be sure that the information gathered is complete. Time spent doing so, is not time wasted. FOIA is important legislation that imposes obligations on public authorities; they are entitled to take time not only to find the information requested but to ensure as best they can that there is nothing more to be found. It is then necessary to complete the administrative and bureaucratic tasks of presenting the information and obtaining approval for release.”

88. Although the Upper Tribunal decision is regarding the statutory timeframe for Freedom of Information, the Commissioner considers the reasoning to apply equally to the EIR.
89. In this case, the Council responded on the twentieth working day following receipt of the request. The Commissioner considers it would be disproportionate to ask the Council for its reasons for the timing of its response as she has no concerns or evidence that the time taken was a deliberate attempt to delay its response.
90. She considers that the Council has not therefore, breached regulation 14 of the EIR.
91. The Commissioner notes, however, that the Council provided the complainant with the outcome of the internal review outside of the statutory forty working day timeframe and, therefore, she finds that the Council has breached regulation 11(4) of the EIR.

92. The Commissioner would like to take this opportunity to remind the Council that the time for internal reviews under EIR is a statutory timeframe and she expects the Council to provide its response within the 40 working day timeframe set out at regulation 11(4).

Regulation 4: Dissemination of environmental information

93. Regulation 4 of the EIR states:

- (1) *Subject to paragraph (3), a public authority shall in respect of environmental information that it holds-*
 - (a) *progressively make the information available to the public by electronic means which are easily accessible; and*
 - (b) *take reasonable steps to organize the information relevant to its functions with a view to the active and systematic dissemination to the public of the information.*
- (2) *For the purposes of paragraph (1) the use of electronic means to make information available or to organize information shall not be required in relation to information collected before 1st January 2005 in non-electronic form.*
- (3) *Paragraph (1) shall not extend to making available or disseminating information which a public authority would be entitled to refuse to disclose under regulation 12.*
- (4) *The information under paragraph (1) shall include at least-*
 - (a) *the information referred to in Article 7(2) of the Directive; and*
 - (b) *facts and analyses of facts which the public authority considers relevant and important in framing major environmental policy proposals."*

94. The complainant set out that he considered that the Council had not fulfilled its obligation under regulation 4 to proactively public environmental information.

95. The Commissioner has considered whether she has the jurisdiction to issue a decision requiring a public authority to make available information otherwise than in a response to a request for information.

96. The First-Tier Tribunal considered the Commissioner's jurisdiction to determine this issue in case EA/2016/0310¹⁰, Dr Thornton v The Information Commissioner. Paragraph 43 states:
97. *"FOIA section 50 (as applied to EIR by regulation 18) provides that a complaint may be made to the Information Commissioner if an information request is thought to have been dealt with in a manner that is inconsistent with the requester's right to have information disclosed on request. Clearly a complaint that voluntary publication has not been effected cannot, by definition, arise from an information request. It is of course open to the Information Commissioner to consider, under FOIA section 52, whether a public authority has complied with any of the requirements of Parts 2 and 3 of the EIR (which will include obligations to publish environmental information under regulation 4). And if that leads to the conclusion that the public authority is in default, an enforcement notice may be issued."*
98. The Tribunal did not come to a conclusion regarding the Commissioner's jurisdiction, however, the above paragraph leads to the logical conclusion that a decision notice cannot be issued for a complaint which does not originate from a request for information.
99. The Commissioner has, however, considered whether it would be proportionate to open a separate investigation with a view to determining whether an enforcement notice is required.
100. The wording of regulation 4 and article 7(2)¹¹ of the Directive appears to give discretion of when and, to a certain extent, what information should be published to the public authority that holds it.
101. The Commissioner notes that information has been made available by the relevant public authorities for the stages of the proposal that it has been decided will progress.
102. In the specific circumstances of this case, the Commissioner has no concerns regarding the Council's proactive publication and will not proceed any further with this complaint.

¹⁰

[http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2008/Thornton,%20Paul%20EA-2016-0310%20\(22.5.17\).pdf](http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2008/Thornton,%20Paul%20EA-2016-0310%20(22.5.17).pdf)

¹¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32003L0004>

Other matters

103. In the course of this investigation, the Commissioner's officer was required to contact the Council to request a response to her questions on numerous occasions. The Commissioner has a duty to perform a robust and thorough investigation into any complaint brought to her. She expects public authorities to engage fully with her officers in order to achieve this.
104. The Commissioner asks that the Council ensures that future submissions are provided within the requested timeframe and where extensions are required, contact is made with the Commissioner's officer in every instance.
105. Following submitting a complaint to the Commissioner, the complainant wrote to the Council to ask it to provide the Commissioner with the withheld information and a submission regarding the Council's decision to withhold the requested information.
106. The Commissioner appreciates that the complainant's intention was to be helpful and assist in resolving the case in a timely manner, however, she asks that complainant to refrain from this in future cases. The Commissioner's officers review each case and request relevant information upon allocation and the Commissioner does not consider it necessary for a complainant to request submissions from a public authority on her behalf.

Right of appeal

107. 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: 0300 1234504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

108. 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.

109. 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

Terna Waya
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