

**Freedom of Information Act 2000**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 5 March 2018

**Public Authority:** Hampshire Fire and Rescue Service  
**Address:** Hampshire Fire and Rescue Service HQ  
Leigh Road  
Eastleigh  
Hampshire  
**Postcode:** SO50 9SJ

**Decision (including any steps ordered)**

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1. The complainant has requested information relating to planning applications. Hampshire Fire and Rescue Service disclosed information. However, the complainant was not satisfied and clarified two remaining outstanding issues. Hampshire and Fire Rescue Service confirmed that it did not hold any recorded information in relation to these two issues.
2. The Commissioner's decision is that Hampshire Fire and Rescue Services is correct to state that it does not hold any information in relation to the two outstanding issues. She therefore considers that it has not breached regulation 5(1) (disclosure of environmental information) of EIR.
3. The Commissioner does not require HFRS to take any steps as a result of this decision notice.

**Request and response**

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4. On 13 August 2016, the complainant wrote to Hampshire Fire and Rescue Service (HFRS) and requested the following information:

*"I am trying to ascertain the Service's input to these planning applications with regard to your requirements for access to this development [now known as Medstead Farm], particularly but not restricted to the design of the emergency access from Brislands Lane. I am concerned about the impact of this facility on its surroundings and particularly on the rural character of Brislands Lane. I can find no*

*relevant consultee comments online. Please provided copies of any information regarding advice, recommendations and/or requirements provided by the Service to either Hampshire County Council [as a highway authority] or East Hampshire District Council [as planning authority] about these important matters."*

5. On 17 August 2016 the complainant contacted HFRS referring to his request and added the following:

*'A Development Brief for this site was adopted by EHDC in November 2009. At 8.8 the Brief states " ...a 3 metre wide combined footpath cycleway will also be provided through the site that connects both the baseline and reserve sites with Brislands Lane ... This will also function as an emergency access for the site".'*

6. On 22 August 2016 the complainant contacted HFRS again and added the following:

*'I now note that on at least two other EHDC planning applications [55949/001 and 20252/003] the Service's consultee comments include that " ... Access and facilities for Fire Service Appliances and Firefighters should be in accordance with Approved Document B5 of the current Building Regulations. ..."*

*I then see from Approved Document B5, in the notes under 'Design of access routes and hardstandings' that " ... Fire appliances are not standardised. Some fire and rescue services have appliances of greater weight or different size. In consultation with the Fire and Rescue Authority, the Building Control Body may adopt other dimensions in such circumstances." From the above, it seems possible [or even desirable] that the Applicant and/or EHDC Building Control will have corresponded with the Service regarding the design of the routes into this development, including turning/sweep circles, the design/width of any 'emergency access only' gates and/or specification of any collapsible posts or bollard.*

*Could you please therefore include within the information provided, any correspondence about the 'Brislands Lane' application in which the Service has been involved with regard to Building Regulation compliance.'*

7. On 31 August 2016 HFRS responded. It asked for clarification regarding the exact development the complainant was referring to and for either the full address or a plan of the area concerned so that it could do a comparison within the system it uses to identify a file via a mapping function. The complainant responded on the same day providing the following clarification:

*'...The development, called 'Medstead Farm', is located north of Brislands Lane at the western end of Four Marks. The Application Form gives the site co-ordinates as 466452, 134408. The main access to the site is from the A31 (Winchester Road), via either Lapwing Way or Goldcrest Way.*

*I attach the following:*

*-- Location Plan submitted with the initial [outline] planning application.  
-- Conveyancing Layout, which shows new road names. [Lily Road, Holly Drive, Daisy Close, Beech Grove, Elm Tree Place and Maple Place.  
-- Development Brief [adopted Nov 2009], which at 8.8 [pp 9-10] tells us that "... A 3 metre wide combined footpath cycleway will ... be provided .... This will also function as an emergency access for the site...".'*

8. On 21 September 2016 HFRS responded. It explained that it did not hold the requested information and provided the complainant with information from its building consultation team.

9. On 26 September 2016 the complainant responded, explaining that he considered that HFRS had misunderstood his request and provided the following clarification:

*"For the avoidance of any doubt, what I require are copies of any information that shows if/when the Service has had ANY involvement in the proposal to develop this piece of land, from the time of the Development Brief consultation to present. If nothing else, I would expect to see evidence of the Service's involvement in the provision of adequate fire hydrants and the signing of a Fire Safety Order [for the flats], as well as some sort of official notification of the new street names."*

10. On 12 October 2016 the complainant contacted HFRS saying that he considered that his request should have been considered under the EIR.

11. On 1 November 2016 the complainant contacted HFRS regarding correspondence between them via his personal email address and summarised it. On 8 November 2016 HFRS responded, confirming that it did not hold the requested information.

12. On 21 November 2016 the complainant requested an internal review.

13. On 9 December 2016 HFRS confirmed that it had carried out an internal review, upholding its original decision and providing information about its processes. One page was missing and HFRS sent this to the complainant on 12 December 2016.

14. The complainant was dissatisfied with the internal review and there was correspondence between both parties about this between 28 February

2017 and 21 July 2017. On 12 May 2017, HFRS disclosed redacted information to the complainant in relation to a previous request.

## Scope of the case

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15. The complainant initially contacted the Commissioner on 1 August 2017 to complain about the way in which HFRS had handled his request. On 1 September 2017, he withdrew his complaint. However, on 7 October 2017 the complainant contacted the Commissioner again and explained that he wanted to continue with the present complaint.
16. He explained that he was still waiting for:
  - unredacted copies of information provided to him on 28 April 2017
  - confirmation/clarification as to whether there has been any redaction of information disclosed to him on 28 May 2017
  - confirmation/clarification of particular piece[s] of correspondence to which the documents 2124134.pdf, 2124331.pdf and Block Plan 1 500. Pdf were attached.
17. The complainant also complained that HFRS had not responded to a request he made for a "proper review" regarding a disclosure of redacted information made by it after its "initial, much-flawed internal review."
18. During the Commissioner's investigation, on 8 December 2017, HFRS contacted the complainant and disclosed information with a view to informally resolving the present complaint. However, the complainant remained dissatisfied and the Commissioner asked him to clarify the remaining outstanding issues in relation to the present request.
19. The complainant explained that he considered the following issues were outstanding:
  - what stage of the consultation was drawing 1311-P5-01 revD received
  - the date and from whom was it received.
20. The complainant confirmed that he had received a copy of this drawing previously.
21. The Commissioner contacted HFRS about these issues and it provided an explanation, which was passed on to the complainant. However, he remained dissatisfied and stated the following to the Commissioner:

*"It would appear then, that what HFRS are telling us is that their records do not conclusively demonstrate to which of the pieces of disclosed correspondence this particular drawing was attached, or indeed if it was attached to any of them. Given the significance of the drawing, I do find this most unsatisfactory."*

22. The Commissioner will consider whether HFRS is correct to state that it does not hold any further information in relation to what stage of the consultation was drawing 1311-P5-01 revD received and the date and from whom was it received.
23. She will also consider how it dealt with the request generally, including the complainant's request for a second internal review.

### **Is the requested information environmental information?**

24. Regulation 2(c) of the EIR states that 'environmental information' constitutes any information on measures such as policies, plans and activities which are likely to affect environmental elements and factors. These are listed in regulations 2(1) (a) and (b).
25. The Commissioner considers that, given that the request relates to a planning application, it falls under the EIR.

### **Reasons for decision**

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#### **Regulation 5(1) – duty to provide environmental information**

26. Regulation 5(1) of EIR provides that a public authority that holds environmental information shall make it available on request.
27. In cases where a dispute arises over the extent of the recorded information held by a public authority at the time of a request, the Commissioner will consider the complainant's evidence and argument. She will also consider the actions taken by the public authority to check that the information is not held and any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any reason why it is inherently likely or unlikely that information is not held.
28. The Commissioner is not expected to prove categorically whether the information is held, she is only required to make a judgement on whether the information is held on the civil standard of the balance of probabilities.
29. The Commissioner made detailed enquiries to HFRS in order to assess whether further information is held.

30. HFRS explained that it had searched its Community Fire Risk Management Information System (CFRMIS), scanned paper records retrieved from Alton Fire Station and its electronic filing system. It confirmed that correspondence relating to building developments were either submitted by post or email. Once received, the relevant information is uploaded to CFRMIS which enables it to generate a letter in response respond to an enquiry.
31. The Commissioner asked whether the information would have been held in electronic format. HFRS explained that the drawing in question was a manual record scanned in at Eastleigh HQ by its Knowledge Management department straight into a networked filing location and therefore would be unlikely held on any laptops. In this instance the correspondence relating to the drawing would have also been sent in by post.
32. HFRS also explained that it had searched its databases, using the following terms:
  - 1311-P5-01 revD
  - Its Premise ID for the site '00823689'
  - East Hants District Council planning application references '55949/001' and '20252/003'
  - Medstead farm
  - Greenways
  - Brislands Lane
  - Four Marks
  - Co-ordinates 466452,134408
33. In addition, the Commissioner asked whether the information would have been held manually or electronically. HFRS confirmed that it would have been held manually. The Commissioner acknowledges that the drawing itself was scanned and therefore became an electronic record. However, it does not necessarily follow that any accompanying correspondence, which may identify the stage of the consultation the drawing was received along with the date and from whom it was received, is held electronically or retained manually.
34. The Commissioner also enquired whether any recorded information ever held relevant to the scope of the complainant's request had been deleted or destroyed. HFRS explained that it was possible that records may have existed that were not retained but that this would only have occurred through error. However, it also confirmed that, as a comprehensive search had been undertaken, it was certain that all information relating to the request that was still held by it had been located and delivered to the complainant within the search terms provided by him in his request

35. The Commissioner also asked what HFRS' formal records management policy says about the retention and deletion of records of this type.
36. HFRS explained that routine inquiries and replies have a retention requirement of the current year plus 2 years. However, if there were major changes of policy or work practices, it would consider archiving information.
37. The Commissioner also asked whether there was a business purpose for which the requested information should be held; if there was, what would be the purpose.
38. HFRS explained that it considered that the correspondence and drawing in question, related to an enquiry about a proposal for building development with particular reference to timber framed structures. It explained that correspondence of this kind should be held by the district council, as a record of the history, advice given and subsequent decisions made.
39. The Commissioner also asked HFRS where there were any statutory requirements on it to retain the requested information.
40. HFRS explained that the development in question was subsequently subject to formal planning consultation with updated versions of the drawing and associated correspondence. It clarified that whilst the consultation with HFRS on access to premises and water supplies itself is statutory for a local authority under the Hampshire Act, there is no statutory requirement for HFRS to respond. It confirmed however, that it does respond under section 6 of the Fire Service Act 2004 offering advice and guidance. It also confirmed that there are no statutory requirements for it to document and maintain records regarding this advice.
41. Furthermore, the Commissioner asked whether there was information held that was similar to the requested information.
42. HFRS explained that it had disclosed all the information that it had found in relation to the present request. It also explained that this was then reviewed in relation to a subsequent related EIR request from the complainant. HFRS confirmed that it did not hold any similar information.
43. Furthermore, the Commissioner considered whether HFRS had any reason or motive to conceal the requested information, but she has not seen any evidence of this.
44. Taking everything into account, the Commissioner does not consider that there is any evidence that shows that HFRS holds any recorded information in relation to the two outstanding issues in this request.

45. The Commissioner is therefore satisfied that, on the balance of probabilities, HFRS does not hold any further recorded information in relation to this request. Accordingly, she does not consider that there is a breach of regulation 5(1).

### **Other matters**

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46. The Commissioner notes that the complainant has also complained about HFRS's alleged lack of a response to his request for a 'proper review'.
47. Regulation 11 of the EIR requires a public authority to carry out an internal review in response to a request to do so from an applicant. The Commissioner notes that HFRS carried out an internal review on 21 December 2017.
48. The Commissioner therefore considers that HFRS did carry out an internal review on 21 December 2017 for the purposes of regulation 11. She does not consider that it was under any legal obligation to carry out a further internal review under the EIR.



## Right of appeal

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49. 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](mailto:GRC@hmcts.gsi.gov.uk)  
Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

50. 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.
51. 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 .....**

**Deborah Clark  
Group Manager  
Information Commissioner's Office  
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SK9 5AF**