

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

### **Decision Notice**

**Date:** 12 March 2015

**Public Authority:** Department of the Environment (Northern Ireland)

**Address:** 10-18 Adelaide Street  
Belfast  
BT2 8GB

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

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1. The complainant has requested information relating to planning policies concerning wind energy. The Department of the Environment stated that it had already provided all the relevant information it held in response to a previous request made by the complainant. The complainant disagreed and requested an internal review. The Department failed to provide the complainant with the outcome of the internal review until the Commissioner intervened. The Commissioner's decision is that the Department failed to comply with regulation 11(4) of the EIR. No further steps are required.

#### **Request and response**

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2. On 25 June 2014 the complainant requested the following information from the Department:  
  
*"Please provide all information, including directives, instructions, interpretations, operational guidance and training materials, on the applicability of the minimum separation distance of 500 metres to wind farms and single wind turbines".*
3. The Commissioner understands that the request related to Planning Policy Statement 18 and Policy RE1. The Department responded to the complainant on 23 July 2014, advising that it had already provided all the relevant information it held in response to a request made by the complainant on 13 January 2014.

4. The complainant requested an internal review on 16 August 2014, and explained how he considered that the request of 25 June 2014 was not the same as the request of 13 January 2014.
5. On 11 December 2014 the complainant wrote to the Commissioner to complain that he had not yet received the outcome of the internal review from the Department.
6. The Commissioner contacted the Department on 18 December 2014 and 19 January 2015 to remind it of its obligations under the EIR.
7. The Department wrote to the complainant on 20 January 2015 to advise that it had now completed the internal review. The Department remained of the view that it did not hold any further information relevant to the request. However the Department did provide a more specific web link to information published on its website.

### **Scope of the case**

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8. The complainant asked the Commissioner to issue a decision notice to record the delay in responding to the request for internal review. The complainant accepted that the Department had provided him with all the information held, although he was not happy with the way the Department had handled his request.

### **Reasons for decision**

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9. Regulation 11 of the EIR provides that the applicant may make representations to a public authority if he or she believes that the authority has failed to comply with the EIR. Regulation 11(3) states that:

*"(3) The public authority shall on receipt of the representations and free of charge –*

*(a) consider them and any supporting evidence produced by the applicant; and*

*(b) decide if it has complied with the requirement."*

10. Regulation 11(4) further states that:

*"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."*

11. In this case the complainant requested an internal review on 16 August 2014. The Department did not communicate the outcome of the internal review to the complainant until 20 January 2015, some five months later. This clearly exceeds the 40 working days allowed by regulation 11(4); therefore the Commissioner finds that the Department failed to comply with this part of the EIR.
12. The Department advised the Commissioner that it had completed the internal review, and prepared a response, in December 2014. The Department explained that the letter was not sent owing to an administrative error. However the Commissioner notes that a letter sent in December 2014 would still have been issued well outside the statutory timescale.
13. Regulation 11 of the EIR sets out a clear statutory requirement for a public authority to conduct an internal review where requested. The Commissioner expects all public authorities dealing with requests for environmental information to adhere to the statutory timescales set out in the EIR. The Commissioner monitors complaints received and uses the intelligence gathered to inform his enforcement activities.

## Right of appeal

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14. 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:

GRC & GRP Tribunals  
PO Box 9300  
LEICESTER  
LE1 8DJ

Tel: 0300 123 4504  
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)

15. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
16. 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 .....**

**Alexander Ganotis**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**