Environmental Information Regulations 2004 (EIR)

Decision notice

Date: **27 February 2020**

Public Authority: **Hastings Borough Council**
Address: **Queens Square**
Hastings
TN34 1TL

Decision (including any steps ordered)

1. The complainant has requested information held by Hastings Borough Council (the council) which relates to an invoice that it had received for work undertaken by a third party company in connection to a site licence.

2. The Commissioner's decision is that the council is entitled to rely on regulation 12(5)(e) of the EIR as its basis for withholding the information relevant to the request, and that the public interest rests in favour of maintaining this exception.

3. However, the Commissioner has found that the council has breached regulation 14(2) of the EIR by failing to issue a refusal notice within 20 working days.

4. The Commissioner does not require the council to take any steps as a result of this decision notice.

Request and response

5. On 5 July 2018 the complainant wrote to the council and requested information in the following terms:

'There is an invoice dated 25 April 2016 reference GEGBINV0000576 for £1,332.00 from Coffey. The invoice is titled 'Rocklands Licence Advice'.

This invoice is clearly for consultancy work concerning land stability at Rocklands.

Please provide me under EIR with any reports/documents/emails etc relating to this work undertaken.'

6. On 5 September 2018 the complainant contacted the Commissioner about the council's failure to respond to his request. Following the Commissioner's intervention, the council then responded to the complainant's request on 11 October 2018.

7. The council advised the complainant that the invoice which he had referred to concerned land stability at a local park site and related to the site licence. It stated that negotiations about the site licence was a private matter between the site owners and the council, and that there are no public consultations in relation to such affairs.

8. The council went on to confirm that it regarded the information requested to be exempt under regulation 12(5)(e) of the EIR. When making this decision, it advised that it had given consideration to the following:

'-Is the information commercial or industrial
-Is the information subject to confidentiality provided by law
-Is the confidentiality protecting a legitimate economic interest
-Would disclosure adversely affect the confidentiality.'

9. The council went on to confirm that it had also considered the public interest test. It advised that it considered the factors of '*transparency and accountability*' to weigh in favour of disclosure. The factors that it regarded to be against disclosure were as follows:

'-Unfounded critical publicity (and defamatory) reviews and postings about [the site] via social media and press leading to a loss of trade by virtue of a long running campaign since 2013.

-Significant diversion of their attention away from the efficient running of the owners business.
-A material reduction in the funds they have available to invest in the owners business.

-A reduction in the value of the owners park/business proved by lack of bookings for holiday lets and by valuations.

-Accusations against owners of Rocklands for al eged [sic] *criminal offences and responsibility for landslip.*

-Many complaints to the local authority (Hastings Borough Council) about compliance caravan site licensing, planning and building control laws.

-Additional cost of professionals to protect Rocklands owners interests against the campaign pursued by SEG [Save Ecclesbourne Glen] *e.g. lawyers/surveyors and agents.*

-Constant bad publicity by SEG hampers the owners ability to be able to eventual y sel [sic] *their land and business for a fair value.*

-Loss of contentment/enjoyment of running their family business.'

10. The council went on to say that, for the reasons it had given (as set out in paragraph 9 of this decision notice) it would not be providing the information requested.

11. On 5 November 2018, the complainant requested an internal review. In the council's response of 21 December 2018 it maintained its original position. It also advised that a new licence had now been issued to the site owners and that it was aware that the complainant had received a copy of this. In addition, the council stated that it had supplied the complainant with all the reports relating to the site and Ecclesbourne Glen that it was willing to disclose, and that it was satisfied that its original decision to withhold the information requested was correct.

Scope of the case

12. The complainant contacted the Commissioner on 5 March 2019 to complain about the way his request for information had been handled.

13. During the investigation the Commissioner had asked that the council provide a copy of the withheld information for her consideration. In response, the council confirmed that the information that it had identified as being relevant to this request was the same as that information which it had withheld in response to another request submitted by the same complainant on 30 November 2016. The council's handling of that request has already been considered by the Commissioner within decision notice FER0819616, issued on 26 February 2020. For the purposes of this decision notice, that request will be referred to as Request 2.

14. Given that the council viewed the same information to be relevant to both requests, it asked the Commissioner to consider the

representations it had previously submitted in relation to Request 2, and to '*use this information and the reasons for nondisclosure for this case.*'

15. It should be noted that when the council replied to the Commissioner's enquiries about its handling of the request that is currently under consideration, the decision notice relating to Request 2 had not yet been issued; the council was therefore unaware of the outcome of that complaint at the time of its response to the Commissioner.

16. The complainant, in his representations to the Commissioner, had stated that he had concerns about the council's refusal to provide him with *'a report referred to in an invoice'*. He went on to say that the public had only been made aware of the existence of this report on 14 October 2017 when reference had been made to the invoice in a response to another information request.

17. Having considered the terms of the request, the Commissioner accepts the council's assertion that the information it withheld in response to Request 2 is also relevant to the request currently under consideration. Whilst it would appear that the complainant believed he was requesting a copy of a document which he had not previously asked for, the Commissioner has not found any evidence which indicates that there is a particular report, or document, held by the council setting out advice which is unique to the terms of the particular request that is under consideration.

18. However, whilst the withheld information may be the same, the Commissioner considers there to be one significant difference between the two cases, that being the date that they were submitted to the council. Whilst Request 2 was submitted to the council on 30 November 2016, the request currently under consideration was submitted to the council some 19 months later on 5 July 2018. Therefore, whilst the Commissioner will take into account the council's representations submitted for Request 2 when considering its handling of the request currently under consideration, it does not necessarily follow that her decision will be the same.

19. In saying the above, there is one particular point where the Commissioner is satisfied that her view will remain unchanged to that set out in decision notice FER0819616; this is in relation to the extracts of the draft licence contained within the bundle of withheld information that has been identified as being relevant to both requests. This information has already been considered in some detail in decision

notice FS50830896[1], issued by the Commissioner on 29 January 2020, and also decision notice FER0826308, issued on 25 February 2020. Given this, the Commissioner regards there to be little value to any party to go on to repeat once again what would essentially be exactly the same findings in relation to this specific information.

20. As a result, having had regard to the particular circumstances of this case, the Commissioner has decided that it would be appropriate to follow the same approach taken in decision notice FER0819616. She has therefore excluded the content of the draft version of the licence from her consideration of the bundle of withheld information in this particular instance. Therefore, no further reference will be made to this specific information, and it will have no bearing on her final decision in this particular case.

21. The Commissioner would clarify at this point that whilst the content of the draft licence itself has been excluded from her consideration of the withheld information, any additional comments, annotations, discussions, etc. made by various parties about the conditions of the draft licence which are found to be relevant to the terms of the request, and which are not already in the public domain, will still be taken into account.

22. The Commissioner therefore considers the scope of her investigation to be whether the council was correct to withhold all the information relevant to the request (excluding the content of the draft licence itself) under regulation 12(5)(e) of the EIR. In addition, she has considered the council's compliance with the procedural aspects of the EIR, as requested by the complainant.

Reasons for decision

Is the information environmental information?

23. Information is 'environmental information' and must be considered for disclosure under the terms of the EIR, rather than the Freedom of Information Act 2000 (FOIA), if it meets the definition set out in regulations 2(1)(a) to 2(1)(f) of the EIR.

[1] https://ico.org.uk/media/action-weve-taken/decision-notices/2020/2617144/fs50830896.pdf

24. Regulation 2(1)(c) of the EIR says that any information on measures such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements or factors of the environment listed in regulation 2(1)(a) and 2(1)(b) will be environmental information. One of the elements listed under 2(1)(a) is land.

25. The request was for information that was held about work undertaken that related to an invoice submitted to the council by Coffey Geotechnics Ltd (Coffey). Given that geotechnical engineering is the branch of engineering that involves the mechanics of the land (primarily that relating to soil, sand and rock), it is not unreasonable to assume that any *'Licence Advice'* provided by Coffey will relate to conditions of a licence that are directly connected with the land.

26. The Commissioner is satisfied that the information that has been withheld that is relevant to this request can be considered to have an affect on the land and its use, and that it fits squarely into the definition of environmental information set out within regulation 2(1) of the EIR.

Regulation 12(5)(e)-commercial confidentiality

27. Regulation 12(5)(e) of the EIR states that a public authority can refuse to disclose information, if to do so would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

28. The construction of the exception effectively imposes a four-stage test and each condition as set out below must be satisfied for the exception to be engaged:

    - Is the information commercial or industrial in nature?
    - Is the information subject to confidentiality provided by law?
    - Is the confidentiality required to protect a legitimate economic interest?
    - Would the confidentiality be adversely affected by disclosure?

29. For clarity, if the first three questions can be answered in the positive, the final question will automatically be in the positive. This is because, if the information was disclosed under the EIR, it would cease to be confidential.

30. The Commissioner has considered each point of the above test. When doing so, she has viewed it to be relevant to consider certain comments made by the First-tier (Information Rights) Tribunal in the case of

Hastings Borough Council v IC EA/2017/0084[2] (the Tribunal case). That case directly relates to decision notice FS50650700[3], issued by the Commissioner on 28 March 2017 and has been referred to by the council in support of its decision to withhold information in response to both this request, and Request 2.

31. In the Tribunal case, the request under consideration was for a report produced by Coffey dated 23 January 2015. This report had been commissioned by the council and contained information about landslips which had affected both the site and Ecclesbourne Glen. The Tribunal ruled that the council had been correct to withhold parts of the report where the information was based on, or related to, technical information that had been obtained by the site owners and provided to the council on a voluntarily basis.

32. The Commissioner is mindful that the Tribunal decision will not be relevant to every request that is received by the council that relates to the same site, the landslips and land stability. In addition, the request under consideration is not for the exact same information that the Tribunal considered. However, in this particular instance, the Commissioner is satisfied that there are sufficient similarities in both cases for her to be able to conclude that the Tribunal's comments are, at least in part, relevant to her consideration of this case.

Is the information commercial or industrial in nature?

33. The Commissioner considers that for information to be commercial or industrial in nature it will need to relate to a commercial activity. The essence of commerce is trade, and a commercial activity will generally involve the sale or purchase of goods and services for a profit.

34. In the Tribunal case, the Commissioner was described as having taken a restrictive approach to the issue of whether the information that had been withheld was commercial or industrial. It advised that it would be hard to see a more commercial piece of information than that which relates to a major asset of a business venture and stated the following:

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[2] http://informationrights.decisions.tribunals.gov.uk/DBFiles/Decision/i2167/Hastings%20Borough%20Council%20EA.2017.0084%20(26.03.18).pdf

[3] https://ico.org.uk/media/action-weve-taken/decision-notices/2017/2013849/fs50650700.pdf

'To a greater or lesser extent the disputed information may give indications of costs or problems which might (or might not) restrict the use which the property could be put and the expenditure which might need to be incurred to ensure the continued exploitation of the asset. It is rather hard to see a more commercial piece of information than that.'

35. Having had regard to the Tribunal's comments, the Commissioner has taken a broader approach and taken into account the wider context in which the relevant information is held.

36. The technical advice given by Coffey relates to, and helped form part of, the conditions that were included within the draft, and final, version of a site licence.

37. Once issued, the site owners have an obligation to follow all the conditions set out in the licence and this will have an affect on how they can use their land and run their business. This, in turn, may lead to restrictions on how the property and land on the site can be used, developed etc, for business purposes. This will have an affect on the costs and revenue of the site.

38. The Commissioner is satisfied that the Tribunal's description of what is commercial information can, and should, be extended to this case. As a result, she has determined that the withheld information can be considered to be commercial for the purposes of the EIR.

Is the information subject to confidentiality provided by law?

39. With regard to this element of the exception, the Commissioner will consider if the information is subject to confidentiality provided by law, which may include confidentiality imposed under a common law duty of confidence, contractual obligation or statute.

40. The Commissioner has not been made aware of any statutory duty of confidence in this instance. She has therefore gone on to consider the common law of confidence, which has two key tests:

    - Does the information have the necessary quality of confidence? This involves confirming the information is not trivial and not in the public domain.

    - Was the information shared in circumstances importing an obligation of confidence? This can be explicit or implied.

41. The information that has been withheld relates to a site licence which will impose certain conditions that will affect how the site owners run

their business and use their land. The Commissioner therefore considers that the information, in the main, is not trivial.

42. The Commissioner regards the withheld information to contain advice that will be based on both current, and historic, information relating to the site.

43. The council has argued that the licence process is a private matter between the site owners and the council. It states that it is not open to public consultation and as such is viewed to be confidential. The council has gone on to say that negotiations are conducted in private and should not be disclosed.

44. In decision notice FER0819616, the Commissioner had accepted that, as the process was still ongoing at the time the request was made, certain information relating to the draft licence was still subject to a duty of confidence. In this case, as the licencing process was complete at the time of the request, she has gone on to consider whether it was reasonable for the relevant parties to expect that confidentiality to continue.

45. Having considered the various stages of the licence process, whilst there is an expectation that the licence itself is likely to be published, the Commissioner is of the view that the relevant parties would not expect certain communications that were exchanged prior to it being issued to also be placed into the public domain.

46. The Commissioner accepts that it should not be assumed that all information relating to the formulation of a licence will be subject to a duty of confidence. However, she regards it to be the case that, in most instances, the confidentiality which is expected in relation to the negotiations, and the information associated with such negotiations, is an intrinsic part of the process; it builds trust and provides for a more open and free discussion between all relevant parties. This in turn, allows for a more effective licence process.

47. In this instance the information does not just relate to information exchanged between the site owners and the council. It includes information provided by the geo technical engineers who had been commissioned by the council to provide *'Licence Advice'*. However, the Commissioner regards the withheld information to be directly relevant to the wider negotiations which took place between the relevant parties about the proposed conditions of the licence.

48. The Commissioner is satisfied that there would have been a reasonable expectation by all relevant parties that, in the circumstances of this case, the withheld information would be treated in confidence. In this

instance, she does not regard the passage of time to be sufficient, in itself, to have eroded the duty of confidence which had existed whilst the negotiations about the conditions of the licence were still ongoing. In addition, she has found no other factors that would, in her view, diminish that level of confidentially that this information attracts.

49. The Commissioner is satisfied that the withheld information that is being considered within this decision notice is not trivial in nature, and it has the necessary quality of confidence. She has therefore gone on to consider whether the third criteria is met in relation to the withheld information.

Is the confidentiality required to protect a legitimate economic interest?

50. In the Commissioner's view, in order to satisfy this element of the test, disclosure of the confidential information would have to adversely affect a legitimate economic interest of the person (or persons) the confidentiality is designed to protect.

51. The Commissioner considers it to be necessary to establish that, on the balance of probabilities, some harm would be caused, rather than might be caused, as a result of disclosure.

52. The council has argued that it would cause harm to the economic interests of the site owners.

53. Once again, the Commissioner regards it to be pertinent to consider the same Tribunal case referred to throughout this decision notice. Paragraph 27 of the Tribunal's decision sets out the reasons why it was accepted that the withheld information that it was considering required confidentiality in order to protect a legitimate economic interest. It stated the following in support of its view:

'The legitimate economic interest which the confidentiality protects is that of the owners to run their business free of any unlawful interference, to have confidential exchanges with their insurers and with the council in the context of negotiations which may break new ground in the application of environmental considerations to site licencing.'

54. In the same paragraph, the Tribunal goes on to say:

'We must have regard to the terms of regulation 12(5)(e) and assess whether the commercial confidentiality at issue is "provided by law to protect a legitimate economic interest." There is no legitimate economic interest in running an unsafe site or a site that causes and may continue to have an adverse environmental impact. There is a

legitimate economic interest in trying to reach an agreement on site regulation which meets both legitimate environmental concerns and the fair treatment of an established business.'

55. The Commissioner has taken into account the fact that the withheld information that she is considering clearly extends beyond the exchange between the council and the site owners described in paragraph 27 of the Tribunal decision. At the time of the complainant's request, an agreement had also been reached on the terms of the site licence; the process relating to its formulation, and implementation, was therefore complete.

56. However, despite this, the Commissioner is still satisfied that the Tribunal's comments are relevant to her consideration of this part of the four-stage test to determine if the exception at regulation 12(5)(e) is engaged.

57. The information that has been requested was created, and is held, for the purpose of issuing a new site licence. The Commissioner regards this information to directly relate to the underlying aim to '*reach an agreement on site regulation'* that the Tribunal regarded to be of some importance in its consideration of the application of regulation 12(5)(e).

58. The Commissioner has considered whether the commercial confidentiality required to protect a legitimate economic interest as described by the Tribunal is still in play now that the licence has been issued. She accepts that this may not necessarily be the case with the passage of time. However, she also considers there to be a number of other factors that are significant to her consideration of this point.

59. The Commissioner is of the view that the information requested cannot be looked at in isolation; it must be considered in the context of why it was provided and is held. The Commissioner is satisfied that it is inextricably linked to the negotiations between the council and the site owners about the licence. This licence has an affect on how the latter use their land and run their business.

60. The licence that was issued is not a 'one off'; it was, to some extent, a 'variation' of the licence that had previously been issued in March 2012 and there were a number of licences that had also preceded that version. There are also likely to be further licences issued in the future which may again vary certain conditions contained within the current licence. This may, or may not, be in the near future, depending on circumstances which may arise.

61. The Commissioner regards it to be a realistic possibility that the withheld information will be taken into consideration (together with the other historical information held about previous licences that have been issued) when drafting future licences for the site. Disclosure of this information could have a detrimental impact on any future negotiations about variations in the current licence, or a new licence, and this, in turn, will have an impact on the running of the site and its owners.

62. The Commissioner is mindful that, whilst taking into account the passage of time, her decision as to whether the disclosure of the information would harm the economic interests of the site must still logically follow, not contradict, the reasoning set out by the Tribunal.

63. The Tribunal's comment that '*there is a legitimate economic interest in trying to reach an agreement on site regulation which meets both legitimate environmental concerns and the fair treatment of an established business'* was made whilst the current version of the licence in operation was still subject to negotiation. However, the Commissioner regards such comments to be pertinent to the withheld information, even after the licence was issued.

64. The council, in support of its decision to withhold the information relevant to the request currently under consideration, has also made reference to alleged harassment caused by the campaign group and the detrimental effect that this has had on the site owners and their business. The Commissioner is aware that the campaign group refutes the claims of the harassment.

65. The Commissioner does not regard it be necessary to consider whether the allegations of harassment are valid or not. However, she is of the view that there is enough evidence to indicate that some of the publicity relating to the landslips and the site has presented the site in a negative light. That being said, negative publicity does not necessarily provide sufficient grounds for withholding the information. Such publicity may be warranted, it may not; that is not the issue which is to be determined by the Commissioner at this point. It is only considered to be of relevance in the context of whether the release of the withheld information would cause harm to the legitimate economic interests of the site owners.

66. The Commissioner has considered the following comments by the Tribunal:

> *'While there is clear evidence of economic harm caused to the business, teasing out the contributions of the landslide (with consequent reduction in the number of pitches) and the campaigning about the landslide as the causes of that harm presents some challenges. However it is clearly foreseeable that further disclosure*

would have resulted in more adverse publicity and some economic harm would flow from that.'

67. Having taken all factors into account, the Commissioner is satisfied that there is sufficient evidence for her to conclude that, despite the fact that the licence has now been issued, there is still a realistic possibility that the disclosure of the withheld information would harm the legitimate economic interests of the site owners. In addition, she accepts that the disclosure of the withheld information would also result in the '*adverse publicity'* referred to by the Tribunal and that '*some economic harm would flow from that.'*

68. The Commissioner therefore concludes that the third part of the test as set out in paragraph 28 of this decision notice is met.

Would the confidentiality be adversely affected by disclosure?

69. Although this is a necessary element of the exception, should the first three tests set out in paragraph 43 be met, the Commissioner considers it inevitable that this element will also be satisfied. In her view, disclosure of truly confidential information into the public domain would inevitably harm the confidential nature of that information by making it publicly available and would harm the legitimate economic interests that have been identified.

The public interest test

70. As the exception under regulation 12(5)(e) is engaged, the Commissioner has gone on to consider whether the public interest in the disclosure of the requested information outweighs the public interest in maintaining the exception.

71. When carrying out the test, the Commissioner must take into account the presumption towards disclosure provided in regulation 12(2).

72. In this particular case, the council stated that it considered the factors in favour of disclosure to be transparency and accountability.

73. The Commissioner is aware that the landslips which have affected Ecclesbourne Glen not only impacted on the landscape of a country park, but led to the closure of several public footpaths, some of which it would appear remained closed at the time of the request.

74. The Commissioner appreciates that the landslips are likely to have generated a lot of public interest and that there were concerns amongst local residents about what did, or did not, cause or contribute to their occurrence. She also accepts that, as footpaths remained closed at the time of this request, it is likely that there was still a public interest,

particularly amongst local residents, about the effects, and future management, of the landslips.

75. In decision notice FER0819616, the Commissioner regarded it to be of some relevance to consider that information which was in the public domain at the time of the request (although she does note some of this was not proactively published by the council but rather was released in response to information requests). This information provides some detail about the investigations which were carried out into the landslips, and any remedial action which was taken. The council has also continued to release some information provided by the geotechnical engineers following this request[4] which has provided updates on the state of the landslips.

76. The Commissioner believes that some importance must be placed on the concept of confidentiality of communications between all relevant parties during the process of issuing a licence. In her view, the disclosure of the withheld information would not only reveal details about the negotiations between the site owners and the council (as it relates to advice given about the content of the licence), it may also provide some insight into the council's consideration of the matter, which the site owners themselves do not have access to. Therefore, it could not only affect any future negotiations between the council and the site owners (by resulting in loss of trust about the confidentiality of discussions that take place) but also could reveal details about the processes followed by the council. This, importantly, could affect the council's ability to fulfil its statutory functions effectively in this future, both in relation to future licences at the site in question, but also other sites.

77. In this instance, there are wider factors at play which the Commissioner regards to have had an affect on the expectations of confidentiality to the information held about the licence. The formulation of this particular licence involved some sensitive issues, primarily because some members of the public linked it to matters that concerned the landslips that had affected both the site and Ecclesbourne Glen.

78. The Commissioner accepts that there is strong feeling amongst certain interested parties about what caused the landslips and this has, understandably, resulted in a greater level of interest in any actions taken that may relate in some way to this. It is perfectly right, in the Commissioner's view, that the public should be properly informed of

[4] https://www.hastings.gov.uk/static/foi/FOIR-141060345_FOIR-141060345_1-FOI141060345_Redacted.pdf

matters relating to the landslips which have caused severe damage to the landscape and amenities within the country park. However, it has also led to additional pressure being placed on the site owners about their site and the land on which it is based. There is, in the Commissioner's view, a balance to be struck between what is truly in the public interest, and the site owners' right to a certain level of privacy in the running of their business.

79. In paragraph 64 of this decision notice the Commissioner referred to the allegations of harassment that the council claims that the site owners have been subjected to. The council also made reference to this same point in the Tribunal case in support of its decision to withhold the information relevant to that request.

80. The complainant has provided the Commissioner with a police report which he believes provides evidence that no harassment has occurred in the way that has been described by the council.

81. After consideration of the public interest factors relevant to this case, the Commissioner is satisfied that any conclusions she might reach in relation to this point would not actually affect the balance of those factors in favour of, and against, disclosure so significantly that it would alter her final decision. Given this, the Commissioner does not regard it to be necessary, or appropriate, to determine the validity of any claims of harassment that have been made.

82. The Commissioner, whilst appreciating that the arguments for transparency and accountability carry some weight in support of disclosure, believes it to be questionable what real value would be attained from disclosing the details requested. However, in contrast, she regards the potential harm caused to the confidentiality of negotiations which form part of the licence process, and the detrimental effect that this would have to both the ability of the council to fulfil its statutory functions, and the site owners right to run their business with some degree of privacy, to be real and significant. She regards this to still be the case even though the licence has now been issued.

83. Therefore, having taken all relevant factors into account, the Commissioner is satisfied that the disclosure of the information requested relating to advice received from the geotechnical adviser about the licence conditions is not in the public interest. The harm disclosure would cause to both the site owners, and the council, weighs the balance heavily in favour of withholding the information in this instance.

84. As a result, the Commissioner had concluded that the council was correct to have withheld the information that is under consideration in this instance.

Procedural matters

85. The complainant has requested that the Commissioner also consider the general handling of this request by the council.

86. Regulation 14(2) of the EIR states that a refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request.

87. The complainant made his request on 5 July 2018 and the council only provided its response dated 11 October 2018 following the intervention of the Commissioner.

88. The council has provided some explanation for the time taken to deal with information requests in other representations that it has made to the Commissioner and these have all been taken into account as part of the consideration of the timeliness of its response in this case.

89. However, it does not appear to be in dispute that the council failed to issue its refusal notice within 20 working days of the receipt of the request. As such, the Commissioner is satisfied that the council has breached regulation 14(2) of the EIR in this instance.

Right of appeal

90. 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@justice.gov.uk
    Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

91. 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.

92. 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 .....

Andrew White
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