

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 16 February 2022

Public Authority: South Somerset District Council

Address: Brympton Way
Yeovil
Somerset
BA20 2HT

Decision (including any steps ordered)

1. The complainant requested from South Somerset District Council (“the Council”) information relating to a specific planning application. By the date of this notice the Council had not issued a substantive response to this request.
2. The Commissioner’s decision is that the Council has breached regulation 5(2) of the EIR in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Council to take the following step to ensure compliance with the legislation.
 - The Council must provide a substantive response to the request in accordance with its obligations under the EIR.
4. The Council must take this step 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

5. On 19 February 2021, the complainant wrote to the Council and requested information in the following terms:

“This is a request under the Freedom of Information Act 2000.

I request that a copy of the following documents (or documents containing the following information) be provided to me:

- All emails, both sent and received, in the period July 1st 2020 to February 19th 2021, between [name redacted] of your planning department and [name redacted] and [name redacted], respectively owner of, and agent for planning applications for, [address redacted].
- All emails in the period November 5th 2020 to February 19th 2021 between [name redacted] and [name redacted], both of your planning department.

Please let me know if you require me to pay a fee for this information.”

6. The Council responded on 28 April 2021 and refused to provide the requested information citing section 40(2) (personal data) of the Freedom of Information Act (FOIA).
7. On 2 August 2021, the complainant wrote to the Council to request an internal review.
8. Following an internal review, the Council wrote to the complainant on 11 November 2021 and stated that it was not upholding its original decision to refuse the entirety of the request by relying on section 40(2) of the FOIA. The Council informed the complainant that it would provide him with a new substantive response within 10 working days of that date.
9. By the date of this notice, the Council has not provided the complainant with a new substantive response to his request.

Scope of the case

10. The complainant contacted the Commissioner on 30 December 2021 to complain about the Council’s failure to respond to their request.

11. The Commissioner has considered whether the Council has complied with its obligations in relation to the time for compliance at regulation 5(2) of the EIR.

Reasons for decision

12. Whilst the Council has considered the request under the FOIA, as the complainant has requested information relating to planning, the Commissioner has considered this case under the EIR.

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

“a public authority that holds environmental information shall make it available on request.”

14. Regulation 5(2) of the EIR states that:

“Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.”

15. On 11 January 2022 the Commissioner wrote to the Council and asked it to provide the complainant with a new substantive response to their request within 10 working days.

16. Despite this intervention, the Council has failed to respond to the complainant.

17. From the evidence provided to the Commissioner in this case, it is clear that the Council did not deal with the request for information in accordance with the EIR. The Commissioner finds that the Council has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

18. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

19. 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.
20. 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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF