

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 23 March 2022

Public Authority: Carmarthenshire County Council ("the Council")

Address: County Hall
Carmarthen
Carmarthenshire
SA31 1JP

Decision (including any steps ordered)

1. The complainant has requested information from Carmarthenshire County Council about Glan Lash opencast coal mine.
2. The Commissioner's decision is that the Council has failed to carry out a reconsideration (internal review) of a response it provided under the EIR within 40 working days. No steps are required.

Request and response

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

"FOI request:

In relation to the Glan Last opencast coal mine (Llandybie, Carmarthenshire) I request:

1. The earliest documents available that note the expected cost of restoration (incl. aftercare) (dating back to 2010)
2. The most recent documents available that note the expected cost of restoration (incl. aftercare) (not including the proposed extension)

3. The most recent documents available that note the expected cost of restoration (incl. aftercare) (including the proposed extension)
 4. Financial statement(s) showing the amount of money accrued to pay for restoration (incl. aftercare) cumulatively to date. If it would be clearer, this can be provided without the financial statements
 1. How are these funds held (the type of account and who has control of it)
 5. Submissions from [redacted], or their sub-contractors, for works completed to the Council.”
4. The Council responded to the request on 7 December 2021.
 5. The complainant requested an internal review on 7 December 2021, but the Council did not provide an internal review until 8 March 2022.

Scope of the case

6. The scope of the Commissioner’s investigation is to determine whether the Council has complied with regulation 11 of the EIR.
7. For the avoidance of doubt, the Commissioner has not yet considered and therefore takes no position on whether the Council was entitled to rely on the exception(s) which it has done.

Reasons for decision

8. Regulation 11¹ of the EIR 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.

¹ <https://www.legislation.gov.uk/ukxi/2004/3391/regulation/11>

- (4) 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.”
9. From the evidence presented to the Commissioner in this case it is clear that, in failing to carry out an internal review within 40 working days, the Council has breached regulation 11 of the EIR.

Right of appeal

10. 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

11. 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.
12. 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
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