

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

### **Decision notice**

**Date:** 20 July 2023

**Public Authority:** South Kesteven District Council

**Address:** Council Offices  
The Picture House  
St Catherine's Road,  
Grantham  
NG31 6TT

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

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1. The complainant requested information relating to internal reports from a complaint that they made. 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 failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The Council must take these steps 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 Freedom of Information Act and may be dealt with as a contempt of court.

## Request and response

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5. On 8 December 2023, the complainant made the following request for information to the Council:

“Could you please ensure that I receive a copy of any internal reports and records resulting from this process.”
6. The complainant did not receive a response within 20 working days and therefore made a complaint to the Commissioner.
7. The Commissioner issued a Decision Notice on 21 March 2023 recording the breach of timeliness and ordering a response.
8. On 5 April 2023, the Council responded to the complainant, asking for clarification.
9. The complainant clarified their request in 5 April 2023 in the following words:

“The background is that I raised an issue with the legal team, who referred it to the housing department for investigation. The housing department made a unilateral decision to change the topic of investigation, without even looking at the issue in the form in which it had been raised, and on that basis the officer had informed me that no further action would be taken. The message of the 8th December was my immediate response to this decision, the information request itself forming the middle paragraph.

In that context, then, the expression "this process" refers to the process of handling my original complaint and arriving at that conclusion. In order to challenge the decision effectively, I needed to ascertain the strength of the Council's case for taking that course.

I am aware, in the first place, that summary accounts of issues raised by the public and their resolution are preserved in departmental records. I know this because I raised an issue in October 2018 and obtained a copy of the relevant record in August 2021. Such a summary certainly ought to be recording the grounds for the decision, as well as the decision itself.

The process leading up to this conclusion will have necessitated exchanges between the legal department and the housing department, and within the housing department between managers and officers, on the subject of how the decision should be made and what decision had been made, and these would provide information on the official reasons

for making it. In the absence of that information, the process of querying the decision is being obstructed.”

10. The Council acknowledged the request on the same day.
11. This Decision Notice will be dealing with the Council’s handling of the clarified information request.

### **Reasons for decision**

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

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

13. 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.”

14. The Commissioner contacted the Council on 19 June 2023 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this intervention the Council has failed to respond to the complainant.
15. 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’s decision is 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**

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16. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

17. 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.
18. 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**