

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 19 June 2023

Public Authority: Natural England
Address: Sterling House
Dixs House
Exeter
EX1 1QA

Decision (including any steps ordered)

1. The complainant has requested information from Natural England about assessment and conditions of Sites of Specific Scientific Interest (SSSIs).
2. The Commissioner's decision is that Natural England has failed to carry out a reconsideration (internal review) of a response it provided under the EIR within 40 working days. It has therefore breached regulation 11 of the EIR.
3. No steps are required.

Request and response

4. On 20 February 2023, the complainant wrote to Natural England and requested information in the following terms:

"I live in West Sussex and am interested in the role of SSSIs, and other designations, in protecting and, indeed, improving conditions for native wildlife in this area. I visit some of these SSSIs fairly regularly.

I am concerned about three particular issues:

1. When the sites/units' conditions were last assessed

2. The assessed conditions of the sites/units
3. Where a site/unit is "recovering" is there a plan to ensure recovery and how is this monitored.

The data I quote here is taken from designatedsites.naturalengland.org.uk which I believe to be maintained by Natural England. This indicates the following:

1. Iping Common SSSI has 3 units all of which were last inspected on 31/10/2013. Two of the units are "unfavourable but recovering" and the third is "favourable" but needs revised targets in some aspects.
2. Harting Down SSSI has 11 units. Four are classified as "unfavourable declining" based on assessments in 2021 (three of the four) and 2022 (the fourth). Five are assessed as "Unfavourable recovering" based on assessments dating back as far as 2008 (the 2008 unit has "comments to follow" which seems odd in 2023)!
3. Ambersham Common SSSI has 16 units of which 12 were assessed as "favourable recovering" with some of those assessments dating back to 2008. There were some clear recommendations to improve the area, for example to support sand lizards.

I would be grateful for answers to some specific questions:

1. Are the dates for the last assessments accurate?
2. When will the sites and their units that I have named next be assessed?
3. Is the status "unfavourable recovering" given to a site/unit on the basis of there being a plan (such as an HLS) or is it based on progress made since the last assessment – or is there another factor?
4. Does "recovering" mean that Natural England staff have actually measured an improvement?
5. What evidence has been used to make the assessment "recovering"?
6. Where a unit is assessed as "declining" what action does Natural England take to assist in halting the decline and how often will the unit be assessed to try and stem the decline?
7. For the unit of Harøng Down last assessed in 2008 with "comments to follow" can these comments now be added to the website?

8. How long are Natural England assessments considered to be valid for? For how long do you consider an assessment to be relevant?
 9. Where recommendations are made, how are these followed up and what action is taken to ensure they are implemented, or to assist with their implementation?."
5. Natural England responded to the request on 10 March 2023.
 6. The complainant requested an internal review on 22 March 2023, but Natural England did not complete its review until 7 June 2023.

Scope of the case

7. The complainant contacted the Commissioner on 31 May 2023 to complain about the way this request for information had been handled.
8. The complainant contacted the Commissioner again on 7 June 2023 to advise that they had received the internal review response but remain dissatisfied with the time taken.

Reasons for decision

9. 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.
 - (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."

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

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, Natural England 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
SK9 5AF