

**Freedom of Information Act 2000 (FOIA)**  
**Environmental Information Regulations 2004 (EIR)**  
**Decision notice**

**Date:** 15 May 2024

**Public Authority:** Forestry Commission  
**Address:** 620 Bristol Business Park  
Coldharbour Lane  
Bristol BS16 1EJ

**Decision (including any steps ordered)**

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1. The Commissioner's decision is that the internal review the Forestry Commission provided in this case complied with the requirements of regulation 11 of the EIR. It's not necessary for the Forestry Commission to take any corrective steps.

**Request and response**

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2. On 21 May 2023, the complainant submitted the following request to the Forestry Commission (FC) through the WhatDoTheyKnow (WDTK) website:

"Could you please provide copies of all emails between [name removed], Area Forrester for East Devon and any representatives of Wych Lodge Bike Club (formerly known as Wych Lodge Bike Park).

I am happy to accept redactions of personal or financial information in order to respect confidentiality. Please could your written response be given in the body of a single email in reply, rather than in a separate document attached to an email (even though any supporting documentation may be provided as attachments)."

3. On 20 June 2023, the FC advised the complainant that, on 16 June 2023, it had sent a response to a separate request the complainant had

submitted to it through WDTK on 11 June 2023. The FC confirmed that that response covered both requests and it provided a link to the response.

4. The complainant requested an internal review on 20 June 2023 and the FC provided one on 18 July 2023.

### **Scope of the case**

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5. The complainant considers that the FC's handling of the internal review in this case wasn't compliant with regulation 11 of the EIR. This investigation will therefore consider that matter.

### **Reasons for decision**

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6. Under regulation 11(1) of the EIR, an applicant is entitled to make representations to a public authority – ie request an internal review – if they consider that the public authority hasn't complied with the requirements of the EIR in its handling of their request for information.
7. Regulation 11(3) of the EIR states that:

“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.”
8. And under regulation 11(4), the public authority must notify the applicant of its decision as soon as possible and no later than 40 working days after the date it receives the representations.
9. In their request for an internal review, the complainant argued that it was unreasonable for the FC to send responses to email addresses that weren't “correct” ie to separate requests on WDTK. They considered that doing so stopped WDTK from automatically publishing the FC's response alongside their original request. This therefore made environmental information less available to the public and was the opposite of what would have been reasonable, in their view.
10. In its internal review the FC considered the timeliness of its response, the searches it carried out for information relevant to the request and its reliance on regulation 13 of the EIR to withhold personal data. The FC

also identified further information it could disclose to the complainant, and it disclosed this information, with personal data redacted.

11. As noted, regulation 11(1) concerns an applicant's entitlement when they consider a public authority hasn't complied with the requirements of the EIR in its handling of their request.
12. The complainant was dissatisfied because the FC had sent its response to their request to a separate request the complainant had submitted to it through WDTK. They considered that doing this made the information the FC disclosed in relation to the current request less available to the public.
13. Public authorities have two main obligations under the EIR. First, they must make environmental information available proactively - **distinct from disclosing information in response to a request** - using easily accessible electronic means whenever possible. Second, they must respond to requests for environmental information.
14. Under regulation 6, if an applicant has requested information in a particular form or format then a public authority should make the information available in that form or format if it's reasonable to do so.
15. However, other than regulation 6, which isn't relevant in this case, the EIR don't require that a public authority responds to a request in any particular way. The FC's internal review response therefore focussed on those matters where there **is** a requirement under the EIR; timeliness (regulations 5(2) and 14(2)), whether the FC held any additional information (regulation 5(1)) and the exception on which it was relying to withhold some information (regulation 13).
16. The FC also provided its internal review within the timescale set out under regulation 11(4) of the EIR.
17. With the benefit of hindsight, although it didn't concern a requirement it had under the EIR, from a customer service perspective the FC might have acknowledged the complainant's specific concern and addressed it if it was able to, ie explained why the response might have been posted to the separate request.
18. However, technically, the Commissioner considers that the internal review the FC provided was compliant with the requirements set out under regulation 11 of the EIR.
19. The Commissioner has also noted that, in its correspondence to the complainant on 20 June 2023, the FC provided the complainant with a link to the area of WDTK where it had provided its response. That link was publicly available and so the Commissioner doesn't consider that FC's response was any less available to others.

## **Right of appeal**

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20. 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)

21. 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.
22. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

**Cressida Woodall**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**