

## **Environmental Information Regulations 2004**

### **Decision notice**

**Date:** 27 July 2022

**Public Authority:** Northumberland County Council

**Address:** County Hall  
Morpeth  
Northumberland  
NE61 2EF

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

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1. The complainant requested from Northumberland County Council (the 'council') a copy of a case officer report submitted to the Planning Inspector. The council denied that the requested information was held.
2. During the course of the Commissioner's investigation the council located a copy of the statement, and disclosed this to the complainant on 24 June 2022.
3. The Commissioner's decision is that the council did not comply with requirements of Regulation 5(2) in that it did not provide a copy of the statement to the complainant within 20 working days of receiving the request for information.
4. The Commissioner does not require the council to take any steps.

## Request and response

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5. The complainant requested a copy of a report provided by the council to a planning inspector relating to an appeal to a planning application.
6. On 25 March 2021 the complainant made the following request for information under the FOIA:  
  
    "... For this reason I would like to see the case officers report submitted to the Inspector. You said there was no copy on file....  
  
    There should be an electronic copy on file....  
  
    ... If not you should be able to obtain a duplicate from the Inspector's Office."
7. The council responded on 15 April 2021 and said that all of the information which it holds was available on its planning portal for the relevant planning application. It said that if the statement is not held on its website, then it is assumed that this was not done by the council officer dealing with it, and the officer has now left the council.
8. On the same date the complainant requested that the council conduct a review of its decision. He highlighted that the planning inspector's decision makes reference to the council's statement. He argued that this was evidence that a statement was provided to the planning inspector by the council. The complainant also argued that an important document such as this must have been saved electronically.
9. The council provided an internal review on 23 April 2021. It upheld its position that all of the information it holds is available on its planning website or is otherwise not held.

## Scope of the case

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10. The complainant contacted the Commissioner on 27 July 2021 to complain about the way his request for information had been handled. He argued that the Planning Inspector's Decision refers to the council's statement, and therefore this should be held by it.
11. During the course of the Commissioner's investigation the council located a copy of the statement and disclosed this to the complainant, on 24 June 2022.

12. The following decision notice therefore considers whether the council's disclosure met with the requirements of Regulation 5(2) of the EIR.

### **Reasons for decision**

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#### **Regulation 5 - Duty to make available environmental information on request**

13. Regulation 5(1) provides that, subject to any exceptions being applicable, a public authority that holds environmental information shall make it available on request.
14. Regulation 5(2) provides that information shall be made available under Regulation 5(1) as soon as possible, and no later than 20 working days after the date of receipt of the request.
15. The complainant made his request for information on 25 March 2021. The council disclosed a copy of the statement to the complainant on 24 June 2022. This falls outside of the 20 working days stipulated by Regulation 5(2).
16. The Commissioner's decision is therefore that the council did not comply with the requirements of Regulation 5(2) in its response to the complainant's request for information.

## Right of appeal

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17. 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)

18. 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.
19. 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 .....**

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