

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

### **Decision notice**

**Date:** 27 February 2014

**Public Authority:** Cornwall Council  
**Address:** County Hall  
Treyew Road  
Truro  
TR1 3AY

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

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1. The complainant has requested information relating to the disposal of waste water into a mine shaft in Cornwall. Cornwall Council failed to provide a substantive response to the request until being prompted to do so by the Commissioner.
2. The Commissioner's decision is that Cornwall Council failed to respond to the request within the statutory time limit and breached regulation 5(2) of the EIR.
3. The Commissioner does not require the public authority to take any steps.

## Request and response

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4. On 16 July 2012, the complainant wrote to Cornwall Council (the "council") and requested information in the following terms:

*(in relation to Title No CL201667 – land at Poldice Gewnnap Cornwall TR16 5JG)*

*"1. Evidence on the basis of which the council claims a right to discharge waste water in to the mine shaft.*

*2. Copies of the correspondence between the council and the Environment Agency in relation the (sic) unlawful discharge.*

*3. Details of the alternative means of disposal of waste water from the houses which have been considered by the council, and the anticipated costs in relation to those matters."*

5. Having not received a reply the complainant sent a letter to the council chasing a response on 19 October 2012.
6. On 27 November 2012 the council wrote to the complainant stating that they had "...taken instructions on the issues raised and shall be pleased to provide you with a more substantive response shortly."
7. Following a further chaser letter sent on 4 January 2013 the council wrote again and confirmed that it was still awaiting instructions.
8. Despite numerous subsequent reminders being sent by the complainant the council did not issue a substantive response to the request for information.

## Scope of the case

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9. On 6 November 2013 the complainant contacted the Commissioner to complain about the way their request for information had been handled.
10. The Commissioner confirmed with the complainant that he would consider whether the council had responded to the request in accordance with the EIR.

## Reasons for decision

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### Regulation 5(2) – time for compliance

11. Regulation 5(1) requires that a public authority that holds environmental information shall make it available on receipt of a request.
12. Regulation 5(2) of the EIR states:

*"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."*
13. In this case the complainant submitted their request on 16 July 2012 but the council failed to respond until being prompted to do so by the Commissioner. The council's response was issued on 13 February 2014, some 18 months since the request was made.
14. In view of the severe delay involved in the handling of this request, the Commissioner approached the council for an explanation. The council explained that the delay was most likely due to a breakdown in communications between different departments involved in dealing with the substantive matters raised by the request. However, the council agreed that this did not excuse the delay and provided the Commissioner with assurances that lessons had been learned and steps taken to ensure that future requests would receive timely responses.
15. In view of the above the Commissioner finds that the council breached regulation 5(2) of 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: 0300 1234504

Fax: 0116 249 4253

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.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 .....**

**Andrew White**  
**Group Manager – Complaints Resolution**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**