

## Environmental Information Regulations 2004 (EIR)

### Decision notice

**Date:** 25 May 2017

**Public Authority:** Durham County Council  
**Address:** County Hall  
Durham  
County Durham  
DH1 5UL

#### Decision (including any steps ordered)

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1. The complainant has requested information from Durham County Council ("the Council") about a noise complaint that he has made. The Council did not issue a response.
2. The Commissioner's decision is that the Council has breached regulation 5(2) of the Environmental Information Regulations ("the EIR"). However the complainant has informed the Commissioner that he no longer wishes to receive a response to the request.
3. The Commissioner does not require the public authority to take any steps.

#### Request and response

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4. On 10 August 2016, the complainant wrote to the Council and requested information in the following terms:

*I have asked for a certified copy of the recordings I made - as I made them they are mine. I can the decide whether to take a private action. Please provide this.*

*I would also like to have a written report of the results of the investigation, taking into account the evidence we provided for the case file, contact made with our neighbours and what was discussed and agreed with them, which led you to these conclusions. In addition I would like to receive all information on file - please treat as a formal freedom of information request.*

5. The Council did not provide a valid response under the terms of the EIR.

### **Scope of the case**

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6. The complainant contacted the Commissioner on 30 September 2016 to complain that he had not received a response to his request for information.
7. The Council subsequently advised the Commissioner that it was not originally aware that the request had been submitted, but had since identified the request and would be able to issue a response to it. However the complainant then informed the Commissioner that he no longer sought to have the request fulfilled.
8. The Commissioner therefore considers the scope of this case to be the determination of whether the Council has complied with regulation 5(2) of the EIR.

### **Reasons for decision**

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#### **Regulation 5(2) of the EIR – Time for compliance**

9. Regulation 5(2) of the EIR requires that an information request should be responded to within twenty working days of receipt. In this case the Council acknowledges that it did not respond to the request.
10. On this basis the Commissioner must find a breach of regulation 5(2) of the EIR.

### **Other matters**

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11. In the circumstances of this case the Council has advised the Commissioner that the request was not identified due to being contained in an email chain with another information request of the same date (which was responded to). However, these circumstances have been

recognised and noted, and will be used to inform the Council's identification of requests in the future.

12. The Commissioner reminds the Council of the high importance of ensuring that requests are identified, particularly when contained within larger pieces of correspondence where the request may not be immediately apparent. The Commissioner's public guidance on the identification of requests can be found at:

<https://ico.org.uk/media/for-organisations/documents/1164/recognising-a-request-made-under-the-foia.pdf>

## Right of appeal

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13. 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: 0870 739 5836

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)

14. 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.
15. 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**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**