

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 24 November 2022

Public Authority: Health and Safety Executive

Address: Redgrave Court
Merton Road
Bootle
Merseyside
L20 7HS

Decision (including any steps ordered)

1. The complainant requested information relating to documentation on specific site inspections and the installation of a new flare at [LOCATION REDACTED]. By the date of this notice the Health and Safety Executive (the HSE) had not issued a substantive response to this request.
2. The Commissioner's decision is that the HSE has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the HSE to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The HSE must take these steps within 35 calendar days of the date of this decision notice. Failure to comply may result in the Commissioner making written certification of this fact to the High Court pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 8 September 2022, the complainant made the following request for information to the HSE:

"I would like to request information under the Freedom Of Information Act. It concerns [LOCATION REDACTED].

1) Please provide details of/ documentation regarding all site visits by the HSE since August 2018 (you have previously sent me the COMAH report with inspection date of 02/09/2020 so I don't need that one please)

2) Please provide details of all incidents at the site noted/ reported since August 2018

3) Please provide all documentation between HSE and the [NAME REDACTED] regarding the decision to install the new flare (the LC500) that was installed in November 2021

4) Please provide all documentation between HSE and the [NAME REDACTED] regarding the decision to remove the old flare (EWT9.5)" (sic)

6. The HSE updated the complainant about the timeliness issue of their response on 10 October 2022. To date, a substantive response to the request has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 2 November 2022 to complain about the HSE's failure to respond to this request.
8. The Commissioner contacted the HSE on 8 November 2022 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
9. Despite this intervention the HSE has failed to respond to the complainant.
10. The scope of this notice and the following analysis is to consider whether the HSE has complied with regulation 5(2) of the EIR.

Reasons for decision

11. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

12. Regulation 5(2) of the EIR states that:

"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. From the evidence provided to the Commissioner in this case, it is clear that the HSE did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the HSE has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

14. 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

15. 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.
16. 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
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