

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

**Decision notice**

**Date:** 14 August 2017

**Public Authority:** South Hams District Council  
**Address:** Follaton House  
Plymouth Road  
Totnes  
Devon  
TQ9 5NE

**Decision (including any steps ordered)**

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1. The complainant has requested information concerning the burning of waste on farms and the number of reports South Hams District Council ("the Council") have made over the last 5 years and what the outcome of those reports were.
2. The Commissioner's decision is that the Council has breached regulation 5(2) of the EIR in the handling of this request.
3. The Commissioner doesn't require any steps to be taken as a result of this notice.

**Request and response**

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4. On 30 March 2017, the complainant wrote to the Council and requested information in the following terms:

*"How many reports of burning waste on farms do you get per annum? It would be helpful to have, say, the last 5 years' worth. Of those reports what action do you then take?... I guess this might be recorded as 'letter', 'visit' prosecution...etc".*

5. On 27 April 2017, the complainant rang the Council requesting an update. The Council apologised to the complainant for the time delay and said that they would investigate the matter.
6. The Council responded on 4 August 2017 in which they were unable to provide the complainant with the information requested.

### **Scope of the case**

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7. The complainant contacted the Commissioner on 21 June 2017 to complain about the way his request for information had been handled.
8. The Commissioner considers that the scope of the case has been to consider whether the Council dealt with this request in accordance with its obligations under regulation 5(2) of the EIR.

### **Reasons for decision**

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9. Regulation 5(2) of the EIR states that a public authority that holds information shall make it available as soon as possible and no later than 20 working days after the date of receipt of the request.
10. From the information provided to the Commissioner it is evident that the Council did not respond to the complainant within the statutory timeframe in respect of his complaint: the complainant submitted his request on 30 March 2017 and only received a response on 4 August 2017.

### **Conclusion**

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11. The Commissioner's decision is that the Council did not deal with the request for information in accordance with the EIR. In this case the Council has breached regulation 5(2) of the EIR by failing to respond to the complainant within the statutory time limit.

## Right of appeal

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12. 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)

13. 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.
14. 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** .....

**Alun Johnson**  
**Team Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**