

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

**Date:** 15 August 2022

**Public Authority:** Natural England

**Address:** Foss House  
Kings Pool  
1-2 Peasholme Green  
York  
YO1 7PX

**Decision (including any steps ordered)**

---

1. The complainant has requested information about an alleged incidence of hunting hares with dogs. Natural England disclosed relevant information it holds with personal data redacted in line with regulation 13 of the EIR. The complainant considers that Natural England holds further information relevant to their request.
2. The Commissioner's decision is as follows:
  - Natural England has complied with regulation 5(1) of the EIR because, on the balance of probabilities, it has disclosed all the information it holds that is relevant to the request.
  - Natural England did not comply with regulation 5(2) or regulation 11(4) as it did not provide a response to the request or an internal review response within the required timescales.
3. The Commissioner does not require Natural England to take any corrective steps.

## Request and response

---

4. On 19 February 2021 the complainant wrote to Natural England (NE) and requested information in the following terms:

“Please send me all correspondence regarding the case of alleged Hare Hunting on Fitzwilliam Wentworth Estate (Bradfield Moors) NE Ref 0211201154LA which I originally reported to you (Protected Sites team) on 30/10/2020.

Please send details of internal communications within NE, correspondence with the estate and communication with any part of DEFRA regarding Cross Compliance, from 30/10/2020 to date.

Redaction of names and sensitive locations is fine.”

5. NE responded on 21 April 2021, its reference RFI 5460. It disclosed relevant information with personal data redacted under regulation 13 of the EIR. This information was a copy of the relevant Interim Moorland Management Plan, for the consent period 1 July 2019 – 31 May 2023.
6. The complainant requested an internal review on 28 April 2021. With regard to RFI 5460 they considered that NE would hold further relevant information. They stated:

“Failure to supply information. Your response to me makes no reference to my email to you of 28/11/2020 requesting Enforcement Action (pasted below with your acknowledgement). Your officer [redacted] made it clear that no consent was given for an Operation Likely to Damage the SSSI namely an organised activity involving dogs and I don't believe there was no discussion of this and the other information I supplied showing the landowners actions were intentional. If by some chance, there was no discussion this is a clear failure to act by Natural England.”

7. NE provided an internal review on 13 October 2021. It advised that it holds no further information relevant to the request

## Scope of the case

---

8. The complainant contacted the Commissioner on 10 September 2021 to complain about the way their request for information had been handled. In particular they consider that NE would hold information recording its consent for activity with dogs associated with the incident that is the focus of their request.

9. The Commissioner's investigation has focussed on whether NE holds any further information that falls within scope of the complainant's request. He has also considered the timeliness of NE's response and internal review response.

## **Reasons for decision**

---

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

10. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request.
11. Regulation 5(2) states that information shall be made available as soon as possible and within 20 working days following the date of receipt of the request.
12. The complainant has requested correspondence – internal, with the Estate referred to in the request and with Defra – about a report of an alleged incidence of hare hunting on a specific Estate. NE has disclosed all the relevant information it says that it holds.
13. In its submission to the Commissioner, NE has said that when it received the complainant's request for an internal review, it discussed the matter with the relevant team manager. Specifically, how the complainant does not consider there would have been no discussion of enforcement action following the report [of hunting hares with dogs] that the complainant had submitted to NE.
14. The team manager advised that their team would reply to the complainant's points as they related to the Site of Special Scientific Interest (SSSI) management. The team manager explained why NE does not hold any recorded discussion of enforcement action. The reasons are as follows.
15. First, hunting with dogs is an illegal activity and as such it is a crime. This must be reported to the police to investigate and it is not within NE's statutory duties. NE can only investigate if the police contact it to support the police investigation, which in this case the police did not do.
16. Second, NE is responsible for consenting to activities on the site and a NE manager confirmed that the Estate is permitted to exercise dogs on the site outside of the bird breeding season and as long as no damage is caused to the site.

17. Therefore, the activity in question [exercising dogs] had NE's consent and NE did not take any enforcement action taken against the Estate. That is the reason that NE does not hold any recorded information about discussion about enforcement activity relating to the incident, and therefore was not able to provide any to the complainant.
18. NE says that the complainant has been informed on many occasions what it and the police's responsibilities are. It says it has advised the complainant that if they consider a crime is taking place or has taken place then they should report to the police what they have witnessed. It is then the responsibility of the police force to contact NE to identify if what was witnessed was undertaken illegally or under licence.
19. According to NE, the complainant has told NE that they do not consider that their local police force is responding appropriately to their reports. NE says that that is an issue the complainant should take up with their local police force. It is not a reason for continuing to demand that NE investigates activities over which it has no jurisdiction. The individual responsibilities of each body and how they assist each other is made clear in the memorandum of understanding NE has with the police<sup>1</sup>.
20. NE concludes its submission by confirming the two reasons why it does not hold the information that the complainant considers it **does** hold. First, possible illegal activity such as hunting with dogs should be reported to the police, not NE. No report was made to it by the police and, as such, it holds no related records. Second, the Estate has consent to exercise dogs outside of the bird breeding season and must ensure no damage occurs to the site. Therefore, there is no issue with "cross compliance", no enforcement action was therefore taken and no such records are held.
21. The Commissioner accepts that, on the balance of probabilities, NE holds no further information within scope of the request and has complied with regulation 5(1). It has disclosed the Management Plan that covers the matter of general consent to exercise dogs (with conditions) and does not hold any other consent information about the incident that the complainant reported to NE. This is because no enforcement action was necessary as dogs were being exercised and the Estate has consent to do this.

---

<sup>1</sup> [https://www.nwcu.police.uk/wp-content/uploads/2015/11/MoU\\_Signed\\_Final\\_Document.pdf](https://www.nwcu.police.uk/wp-content/uploads/2015/11/MoU_Signed_Final_Document.pdf)

22. Given the explanation about NE's role and the police's role that NE says it has given the complainant more than once, it would appear to be futile, and not a good use of NE's resources or an appropriate use of the EIR, for the complainant to submit similar requests in the future. As NE has advised the complainant, if they witness a possible crime or have witnessed a possible crime, they should report it to the police in the first instance. The Commissioner appreciates that the complainant may be frustrated with the perceived unresponsiveness of their local police force but, as NE has advised, that is a matter for them to pursue with that force.
23. Regarding timeliness, the complainant submitted their request to NE on 19 February 2021 and NE did not respond to it until 21 April 2021.
24. In its submission to the Commissioner NE has indicated that it extended the time for responding to the request due to "resource issues" and the absence of a staff member. Under regulation 7(1) of the EIR, it is possible to extend the period for a response by 20 working days in cases where a request is complex or a significant volume of information has been requested. That was not the case here. The Commissioner therefore finds that NE did not comply with regulation 5(2) of the EIR as it did not respond to the request within the required timescale.

### **Regulation 11 – representations and reconsideration**

25. Regulation 11(4) of the EIR states that an internal review must be provided to an applicant as soon as possible and no longer than 40 working days after the date of receipt of the request for a review. In this case the complainant requested an internal review on 28 April 2021 and NE did not provide one until 13 October 2021, following the Commissioner's intervention. NE therefore did not comply with regulation 11(4).

## Right of appeal

---

26. 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)

27. 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.
28. 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

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