

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

**Decision notice**

**Date:** 19 January 2012

**Public Authority:** Devon County Council  
**Address:** Topsham Road  
Exeter  
EX2 4QD

**Decision (including any steps ordered)**

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1. The complainant requested information about Morwellham Quay.
2. The Commissioner's decision is that Devon County Council [the council] has breached regulation 5(2) of the EIR because the requested information was not supplied within 20 working days.
3. The Commissioner does not require the council to take any further action.

**Request and response**

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4. On 24 August 2011, the complainant wrote to the council and requested information in the following terms:

"1. Copies of internal communication and documents regarding possible breaches of planning control and proposed planning enforcement action at Morwellham Quay.

2. Details of any meetings held at which there was discussion of possible breaches of planning control and proposed planning enforcement action at Morwellham Quay, including minutes and agendas.

3. Copies of correspondence between Devon County Council and West

Devon Borough Council regarding possible breaches of planning control and proposed planning enforcement action at Morwellham Quay.

4. Copies of correspondence and details of any meetings between Devon County Council and the owners and operators of Morwellham Quay and their representatives in the past 12 months.
5. Details of any communication in the past 12 months between Devon County Council and the following organisations regarding the preservation of Morwellham Quay and associated planning controls:
  - Natural England
  - English Heritage."
5. The council responded on 28 October 2011. The council provided the complainant with the information it held in relation to his request.

### **Scope of the case**

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6. The complainant contacted the Commissioner to complain about the way his request for information had been handled, he stated that he was happy with the information which had been provided however he still wished to complain about the delay experienced in this instance. Therefore, this decision notice therefore concerns the council's late response.

### **Reasons for decision**

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7. Regulation 5(2) of the EIR provides that a public authority should comply with regulation 5(1) within 20 working days. Regulation 5(1) requires a public authority in receipt of a request to confirm whether it holds the requested information, and if so, disclose it to the applicant.
8. The request was submitted on 24 August 2011, and the council responded on 28 October 2011. Consequently the Commissioner finds that the council has breached regulation 5(2) of the EIR.

## Right of appeal

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9. 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: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

10. 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.
11. 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**