

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

**Decision notice**

**Date:** 30 July 2013

**Public Authority:** Scarborough Borough Council

**Address:** Town Hall  
St Nicholas Street  
Scarborough  
North Yorkshire  
YO11 2HG

**Decision (including any steps ordered)**

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1. The complainant requested information about the proposed move of Scarborough Borough Council's offices to a new site. Scarborough Borough Council ("the council") failed to respond to the request within 20 working days. Following a complaint to the Commissioner, the council responded. It disclosed some information but withheld the majority using an exception under the EIR.
2. The Commissioner's decision is that the council breached regulation 5(2) for failing to disclose information within 20 working days. He also finds the council in breach of regulation 14(2) for the failure to issue a refusal notice within 20 working days.
3. As the council has now responded, there are no steps to be taken.

**Request and response**

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4. On 24 August 2012, the complainant requested information from the council in the following terms:

*"In the last few months Scarborough Borough Council engaged East Riding of Yorkshire Council Planning Committee. The engagement was in relation to the move of the Civic Functions for the current SBC Town Hall on St Nicholas Street in Scarborough to a proposed new located on*

*Dunslow Road, Eastfield, near Scarborough. This wasn't a full planning request, it was a pre-application request with a view to asking for planning permission.*

*Please can you provide all documentation and communication from East Riding of Yorkshire Council relating to this pre-application planning request so I can see the outcome of the pre-application request".*

5. The council acknowledged the request on 28 August 2012.
6. When the complainant did not receive any response, he sent reminders to the council on 18 October 2012, 14 December 2012, 11 January 2013 and 2 March 2013.
7. The council responded to the request on 17 July 2013.

### **Scope of the case**

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8. The complainant contacted the Commissioner to complain about the length of time that the council took to respond to the request.

### **Reasons for decision**

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9. Regulation 5(2) provides that public authorities should make environmental information available within 20 working days of a request. The council failed to do this and therefore breached this regulation.
10. Regulation 14(2) provides that public authorities should refuse to provide environmental information within 20 working days of a request. Again, the council failed to do this and therefore breached this regulation.

## **Other Matters**

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11. The Commissioner was concerned to note the length of the delay experienced by the complainant in this case, which was clearly very excessive, and the council's lack of response to the various reminders that the complainant sent in the meantime. This was clearly unacceptable, which the council acknowledged in its response to the complainant. It is not within the spirit or the letter of the legislation. The council said that it is considering its processes for dealing with requests and is hopeful that it will be able to make improvements in the future. It is not clear to the Commissioner why the council handled this particular request so poorly however he trusts that the council will make the improvements referred to, and that no further excessive delays of this nature are brought to the Commissioner's attention in the future.

## 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: 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)

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 .....**

**Andrew White**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**