

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

**Decision notice**

**Date:** 15 July 2015

**Public Authority:** Rhondda Cynon Taf County Borough Council  
**Address:** The Pavilions  
Cambrian Park  
Clydach Vale  
Tonypandy  
CF40 2XX

**Decision (including any steps ordered)**

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1. The complainant requested information about a particular planning application. Despite the intervention of the Commissioner, Rhondda Cynon Taf County Borough Council ('the Council') has not provided an adequate response to the request.
2. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Provide the complainant with a response to his request which complies with the requirements of the EIR.
3. The public authority must take this step 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 Act and may be dealt with as a contempt of court.

**Request and response**

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4. On 10 March 2015, the complainant wrote to the Council and requested information in the following terms:

*"Under the Freedom of Information Act please can you send me a copy of the Planning Application Number 071519 and the PROW [Public Rights of Way] Officer's report for Planning Application Number: 071519"*

5. The Council wrote to the complainant on 16 March 2015 about the request for the PROW Officer's report and stated that:

*"There is no record on the planning file that Public Rights of Department were ever consulted on this application.....I am unable to supply a copy of the previous Rights of Way comments as it is to be assumed that none were made".*

6. The Council wrote to the complainant on 16 April 2015 about his request for a copy of the planning application and advised that:

*"Planning applications are available for inspection at the Planning Department, Sardis House, Sardis Road, Pontypridd between 9:00am - 4:00pm.*

The Council also provided relevant contact details in order for the complainant to make an appointment to view the information at its offices.

## **Scope of the case**

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7. The complainant contacted the Commissioner on 16 April 2015 to complain to that he had not received a response to his request for information of 10 March 2015.
8. The Commissioner wrote to the Council on 22 May 2015 reminding it of its obligations under the FOIA and the EIR and asked it to respond to the request within 10 working days.
9. The complainant contacted the Commissioner again on 9 June 2015 to confirm that he had still not received a response.
10. The Commissioner has considered whether the Council has responded adequately to the request in accordance with the FOIA or EIR.

## **Reasons for decision**

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### **Correct access regime**

11. Information is 'environmental information' if it meets the definition set out in regulation 2 of the EIR. If the information satisfies the definition

in regulation 2 it must be considered for disclosure under the terms of the EIR rather than the FOIA.

12. Under regulation 2(1)(c) of the EIR, any information on activities affecting or likely to affect the elements or factors of the environment listed in regulation 2 will be environmental information. One of the elements listed is land.
13. Having considered that the nature of the information sought by the complainant relates to planning matters the Commissioner is satisfied that the information constitutes environmental information as defined in the EIR.

### **Regulation 5**

14. Regulation 5(1) of the EIR states that a public authority that holds environmental information shall make it available on request. Regulation 5(2) states that this information shall be made available as soon as possible and no later than 20 working days after the date of receipt of request.
15. On 22 May 2015, the Commissioner requested that the Council issue a response to the complainant within 10 working days. He explained that the Council should state whether or not the information is held in a recorded form and, if held, it should either provide the information or issue a refusal notice in accordance with the requirements of section 17 of the FOIA or regulation 14 of the EIR as appropriate.
16. The Commissioner contacted the Council again on 16 June 2015 and informed it that the complaint has been deemed eligible for formal consideration under section 50 of the FOIA.
17. In a telephone conversation on 7 July 2015 the Council confirmed to the Commissioner that other than emails sent to the complainant on 17 March and 16 April 2015, the Council had not issued any further response to the request.
18. To date, the Council has not provided an adequate response to the complainant. It is clear to the Commissioner that, in this case, the Council has failed to adequately respond to the request in accordance with the FOIA or the EIR in that it did not explain which provisions of the legislation (if any) it was relying upon as the basis to refuse the request.
19. The Council is now required to reconsider the request and provide a response to the complainant's request of 10 March 2015 in accordance with the provisions of the EIR. If the information requested is held the Council should either provide it in accordance with regulation 5(1) or

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issue a refusal notice which complies with the requirements of regulation 14 of the EIR.

## Right of appeal

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20. 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)

21. 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.
22. 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**