

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

Decision notice

Date: 7 April 2020

Public Authority: Canal & River Trust

Address: Head Office
First Floor North
Station House
500 Elder Gate
Milton Keynes MK9 1BB

Decision (including any steps ordered)

1. The complainant requested information about damage to the Toddbrook Reservoir spillway from the Canal & River Trust ('CRT'). He submitted a complaint to the Commissioner as he had not received a response to this request.
2. The Commissioner's decision is as follows:
 - CRT breached regulation 5(2) of the EIR as it did not provide the complainant with a response to his request within 20 working days.
3. CRT has now provided a response to the request and, as such, the Commissioner does not require CRT to take any remedial steps.

Request and response

4. Through the WhatDoTheyKnow website, on 30 January 2020 the complainant submitted a request for information to CRT in the following terms:

"Canal & River Trust is subject to Environmental Information Regulations and also subject to the Freedom of Information Act 2000 with respect to functions inherited from British Waterways. The Canal &

River Trust have undertaken to voluntarily release information where they can regardless of whether they are obliged to do so. Please provide all information held relating to

- *Causes of damage to the Toddbrook Reservoir Spillway in August 2018.*
 - *Any actions taken at other reservoirs as a result of that incident..."*
5. On 4 February 2020, the complainant clarified his request as follows:
"Sorry. That should read August 2019."
6. CRT acknowledged receipt of the request on 4 February 2020. On 5 March 2020 CRT wrote to the complainant and apologised for not responding to the request. CRT did not go on to provide a response and the matter was passed to the Commissioner.
7. On 16 March 2020 CRT provided a response to the complainant's request.

Scope of the case

8. The complainant contacted the Commissioner on 28 February 2020 to complain about the way his request for information had been handled. He requested a decision notice from the Commissioner on the matter of CRT's non-response to his request.
9. The Commissioner has considered whether the information is environmental information under the EIR and, if so, whether CRT complied with regulation 5(2).

Reasons for decision

Is the information environmental information?

10. Information is 'environmental information' and must be considered for disclosure under the terms of EIR rather than the FOIA if it meets the definition set out in regulation 2(1)(a) to 2(1)(f) of the EIR.
11. The Commissioner considers the information in this case can be broadly classed as environmental information, as defined in regulation 2(1)(c) of the EIR. This says that any information on measures such as policies, legislation, plans, programmes, environmental agreements and activities affecting or likely to affect the elements or factors of the environment listed in regulation 2(1)(a) and 2(1)(b) will be environmental

information. Two of the elements listed under 2(1)(a) are water and land.

12. The request is for information relating to damage to a reservoir dam slipway. The Commissioner considers the request therefore relates to a measure as defined in regulation 2(1)(c) of the EIR which will or would be likely to affect the elements described in 2(1)(a), namely water and land.

Regulation 5 – duty to make environmental information available on request

13. Regulation 5(1) of the EIR says that a public authority that holds environmental information must make it available on request.
14. Regulation 5(2) of the EIR says that the authority must make the information available as soon as possible and no later than 20 working days after the date of receipt of the request.
15. The complainant submitted his request on 30 January 2020 and CRT did not provide a response to it until 16 March 2020. CRT therefore breached regulation 5(2) of the EIR.

Right of appeal

16. 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@justice.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

17. 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.
18. 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

Pamela Clements
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF