

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

**Decision notice**

**Date:** 18 November 2022

**Public Authority:** Shropshire Council  
**Address:** Shirehall  
Abbey Foregate  
Shrewsbury  
SY2 6ND  
[Information.request@shropshire.gov.uk](mailto:Information.request@shropshire.gov.uk)

**Decision (including any steps ordered)**

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1. The complainant requested from Shropshire Council information on whether traders can obstruct town centre highways with their bins and also information on the existence of a communal bin store at a particular property.
2. The Commissioner's decision is that Shropshire Council has failed to adequately respond to the request within 20 working days and has therefore breached Regulations 5(1) and 5(2) of the EIR.
3. The Commissioner requires the Council to take the following steps to ensure compliance with the legislation.
  - Issue a substantive response, under the EIR, to the request.
4. The Council must take these 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 Freedom of Information Act and may be dealt with as a contempt of court.

**Request and response**

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5. On 24 January 2022 the complainant wrote to Shropshire Council (the Council) and requested information in the following terms:

'Please clarify whether all traders can obstruct the town centre highways with their bins, or just some?

Please also clarify whether there is a communal bin store at the property, as set out in the plans and required in the decision notice.

As you will know, all requests in writing are information requests and must be answered within the statutory time frame'.

6. The Council responded on 22 February 2022. It stated that:

'The container as such is not causing an obstruction, if the lane was a busy section and very well used where pedestrians were forced to walk on a busy carriageway then we would have removed under the Highways Act immediately or had words immediately to rectify. As such the only issue is a visual one and not any health and safety or traffic/pedestrian issue/blockage. We do allow some bins to be stored on a pavement in similar situations when such are the circumstances they have no where else to store them and the bins do not cause an obstruction'.

### **Scope of the case**

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7. The complainant contacted the Commissioner 16 March 2022 to complain about the way his request for information had been handled. In particular, he was dissatisfied the Council failed to, state whether it held the specific information he requested and if so, failed to disclose it or apply an EIR exception.
8. The Commissioner's investigation will be to assess whether the Council has responded to the complainant's request in accordance with the EIR.

### **Reasons for decision**

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#### **Is the requested information environmental as defined by the EIR?**

9. Regulation 2(1) of the EIR defines environmental information as being information on:

"(a) the state of the elements of the environment, such as air and

atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;

(b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);

(c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements;

(d) reports on the implementation of environmental legislation;

(e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and

(f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c);"

10. The Commissioner considers that, as the information requested in this case relates to any laws or rules relating to obstructions on roads and footpaths and the existence of a bin store, it is a measure affecting or likely to affect the elements and factors of the environment, such as land and landscape, as defined by Regulation 2(1)(a). He is therefore satisfied that the information falls within the definition of 'environmental information' under Regulation 2(1)(c) of the EIR.

### **Response under Regulation 5(1) of the EIR**

11. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

12. Regulation 5(2) of the EIR states that:

“information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.”

13. From the evidence presented to the Commissioner in this case, it is clear that, in failing to issue a substantive response to the request within 20 working days, the Council has breached Regulations 5(1) and 5(2) and it is now required to respond to the request in accordance with the EIR.

### **Other Matters**

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14. The Commissioner would recommend that the council is guided by his guidance on [refusing a request under the EIR](#)<sup>1</sup> and on [the time for compliance under the EIR](#)<sup>2</sup>.

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<sup>1</sup> <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/refusing-a-request-under-the-eir/>

<sup>2</sup> <https://ico.org.uk/media/for-organisations/documents/1622/time-for-compliance-eir-guidance.pdf>

## Right of appeal

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15. 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:
  16. 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)
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 .....**

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