

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 16 March 2023

**Public Authority:** Bristol City Council  
**Address:** City Hall  
PO Box 3399  
Bristol  
BS1 9NE

### **Decision (including any steps ordered)**

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1. The complainant requested information about a change in boundary to a Site of Nature Conservation Interest (SNCI). Bristol City Council (the "council") confirmed that it did not hold the requested information.
2. The Commissioner's decision is that, on the balance of probabilities, the council does not hold any information falling within the scope of the request.
3. The Commissioner does not require the council to take any steps.

## Request and response

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4. On 23 August 2022 the complainant wrote to Bristol City Council (the "council") and requested the following information:

"At some time in late 2021, Bristol City Council issued instructions to the Bristol Regional Environmental Records Centre (BRERC) to change the boundary of the Pigeonhouse Stream and Adjacent Meadows Site of Nature Conservation Interest (SNCI). Subsequently, the Council also asked for a number of other SNCI boundaries to be altered. Please disclose all documents brought into existence in relation to these requests."
5. The council's final position is that it does not hold the requested information and that the request is, therefore, refused under regulation 12(4)(a) of the EIR.

## Reasons for decision

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### Regulation 12(4)(a) – information not held

6. Regulation 12(4)(a) of the EIR states that a public authority may refuse to disclose information "to the extent that it does not hold that information when an applicant's request is received".
7. Where there is some dispute between the amount of information identified by a public authority and the amount of information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request). For clarity, the Commissioner is not expected to prove categorically whether the information is held.
8. In this case, the complainant disputes the council's position that no relevant information is held and has stated the belief that instructions were issued to make changes to the boundary of the SNCI identified in the request.
9. The council has provided the following explanation to the Commissioner:

"Sites of Nature Conservation Interest (SNCI) are 'sites which contain features of substantive nature conservation value at a local level. The sites are designated through a Local Sites Partnership (LSP), using an agreed set of criteria. The LSP for the West of England, is formed by

ecologists from each of the unitary authorities, Avon Wildlife Trust, BRERC, Natural England, Forestry Commission, Environment Agency, and the local RIGS group. These sites then receive a level of protection through local planning policy, in-line with PPS9 (Planning Policy Statement 9: Biodiversity and Geological Conservation)."

10. The council has explained that the two departments who are involved with the SNCI LSP are Parks and Planning and both departments keep records of their role within the LSP and would have detailed information about any requests to change SNCI boundaries.
11. The council confirmed that, at the time of the original request, senior managers from both departments were consulted with and both rejected the premise of the request. The council explained that, based on their detailed knowledge of the process of changing SNCI boundaries, they were able to state that no such instructions were issued in relation to the Pigeonhouse Stream and Adjacent Meadows SNCI, or any other SNCIs subsequently.
12. The council further confirmed that, at the time of the internal review of this request, the investigating officer had face-to-face discussions with representatives from the Planning and Parks departments, who restated their position that the council had not issued any instructions to change the Pigeonhouse Stream and Adjacent Meadows SNCI or any other site subsequent to 'late 2021'.
13. The council has further stated that, in addition to the actions carried out above, the investigating officer contacted the council's GIS team, who are responsible for making any updates to the council's digital mapping and who would also need to be made aware of any changes to SNCI boundaries in the event that such a change took place. The council has confirmed that the GIS team confirmed that they had received no such notification of a change to SNCI boundaries which would be relevant to this request.
14. In addition, the council confirmed that the investigating officer contacted the Bristol Regional Environmental Records Centre (BRERC), a partner member of the LSP who would need to be involved in any changes to boundaries, and who were the alleged recipient of the request to change the boundary relevant to this request. The council has confirmed to the Commissioner that BRERC has explicitly confirmed that there had been no changes to the relevant boundaries, nor had it received instructions to this effect from the council.

15. Having considered the available evidence, the Commissioner is satisfied in this case that, on the balance of probabilities, the council has correctly confirmed that it does not hold the requested information in accordance with regulation 12(4)(a) of the EIR.
16. As no information within the scope of the request is held, the Commissioner can only find that the public interest in maintaining the exemption at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because there is no information to disclose.
17. The Commissioner does, however, remind the council that it should have cited regulation 12(4)(a) in its refusal notice.

## Right of appeal

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18. 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: 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)

19. 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.
20. 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 .....**

**Christopher Williams**  
**Senior Case Officer**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**