

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

### **Decision notice**

**Date:** 24 January 2019

**Public Authority:** North Lincolnshire Council  
**Address:** Hewson House  
Brigg  
DN20 8XB

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

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1. The complainant has requested information with regards to a Tree Preservation Order (TPO) and his property. The council initially provided some information, but stated no information was held to part of the request. During the Commissioner's investigation, the council located the remaining information to the request.
2. The Commissioner's decision is that the council breached regulation 5(2) of the FOIA as it provided some of the information outside the required 20 working day timeframe.
3. As the council has now provided the information, the Commissioner does not require it to take any steps.

## Request and response

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4. On 25 April 2018 the complainant made the following information request to the council:

*"...all documentation relating to the implementation of a T.P.O (Tree preservation order) appertaining to a Tree in the garden of [address redacted].*

*The information to include:-*

- a) Why is there a T.P.O on this tree?*
- b) On what grounds was the T.P.O. put on*
- c) How old is the T.P.O.*
- d) Who (resident and Council employee is responsible) submitted and grated said T.P.O.?*
- e) When was my house [address redacted] built?*
- f) When was my present Conservatory built?"*

5. The council responded to each part of the request on the 21 May 2018. For parts a) and b), the council stated the information was not held.
6. The complainant requested an internal review on the 22 May 2018. The council provided its internal review on the 21 June 2018 and it determined that the complainant was querying the council's response to parts a), b) and f) of the request – these relating to the TPO in terms of why and on what grounds the TPO was made and why there are no records of this information.
7. The council found, in its internal review, that it should have considered the request under the EIR, that the information provided was correct except for the mistake on the year given for the planning application date and that it should have explained that this date related to the building of the complainant's house, not his conservatory.
8. With regards to the complainant requiring more detail about why the TPO was placed on the tree, the council explained that the officer only has to be of the opinion that the tree is important enough for an order and there is no requirement to record any other reasoning.
9. The council also explained that in relation to what permission is required to extend the conservatory, this falls outside of the FOIA.

## Scope of the case

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10. The complainant contacted the Commissioner on 1 July 2018 as he considered the council was withholding information with regards to the TPO from him.
11. During the Commissioner's investigation, the council located a document which stated the reason for the TPO being put in place. The council provided a copy of this to the complainant on 7 December 2018.
12. The complainant has told the Commissioner that he is not satisfied with the council only providing this information after he complained to the Commissioner.
13. The Commissioner therefore considers the scope of the case is to determine whether the council has breached regulation 5(2) of the EIR – time taken to provide the information held.

## Reasons for decision

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### Regulation 5(2) of the EIR

14. Under the EIR, a public authority has a duty to inform the requester whether it holds the information and if so, to communicate the requested information to them *'as soon as possible, and no later than 20 working days after the date of receipt of the request.'*
15. In this case, the complainant made his request on 25 April 2018 and although the council provided its initial response on 21 May 2018, it did not provide all of the information it held until 7 December 2018.
16. This is clearly outside the required 20 working days and therefore the Commissioner finds that the council has breached regulation 5(2) of the EIR.
17. As the information has now been provided, the Commissioner does not require the council to take any steps.

## 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: 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)

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 .....**

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