

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

### **Decision notice**

**Date:** 26 October 2022

**Public Authority:** Groby Parish Council  
**Address:** Parish Council Office  
Village Hall  
Leicester Road  
Groby  
LE6 0DQ

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

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1. The complainant requested information with regards to a dispute relating to the ownership of a piece of land. Groby Parish Council (the council) refused the request under section 14(2) of the Freedom of Information Act 2000 (the FOIA). The Commissioner's decision is that the request falls under the EIR and the council should have dealt with it as such. He also finds that the council has breached Regulation 11(3) of the EIR as it has not carried out an internal review as requested.
2. The Commissioner requires the council to take the following steps to ensure compliance with the legislation.
  - Carry out an internal review relating to the complainant's request in accordance with Regulation 11 of the EIR.
3. 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 FOIA and may be dealt with as a contempt of court.

## Request and response

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4. On 23 March 2022, the complainant wrote to the council with regards to a piece of land that was purchased by local residents and a dispute about the ownership of it. Within the letter the complainant made several requests for information, for:
    - a) "confirm from whom this ... advice was obtained and were they qualified to give this advice ...?"
    - b) "Please provide me with a copy of this advice in writing".
    - c) "Please provide me with copies of;
      - (i) the written communication from Leicestershire Police advising Groby Parish Council to refuse requests for information from electors and Groby CIC stakeholders,
      - (ii) the relevant agenda setting out the relevant proposal and a copy of the minute of the resolution approving that proposal,
      - (iii) please confirm on whose authority/instruction the decision was taken to deny or ignore legitimate requests for information in, respect of the Groby CIC."
  5. The council responded on 20 April 2022 refusing the request under section 14(2) of the FOIA – Repeat request.
  6. The complainant requested an internal review on 26 April 2022.
  7. The complainant wrote to the Commissioner on 20 June 2022 with regards to the refusal of his request.
  8. The Commissioner then contacted the council on 12 July 2022 asking that it conduct an internal review within 10 working days.
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## Scope of the case

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9. On 27 July 2022, the complainant advised the Commissioner that no internal review had been provided to him by the council. Nor has the council confirmed to the Commissioner that an internal review has been carried out.
10. In this case, the Commissioner will firstly determine whether the request falls under the EIR or the Freedom of Information Act 2000.
11. If the request does fall under the EIR, then the Commissioner will need to determine whether the council has failed to comply with regulation 11 of the EIR in not carrying out an internal review.

## Reasons for decision

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### Is the request for Environmental Information?

12. The Commissioner has first considered whether the requested information would constitute environmental information as defined by regulation 2(1) of the EIR.
13. In this case the complainant has told the Commissioner that in 2011 residents raised money to purchase a field and the council was to transfer ownership of the land to a Community Trust. He states that this transfer then never took place and his requests relate to the issues around the matter of the land transfer.
14. The Commissioner's guidance<sup>1</sup> on environmental information states:

“Any information’ covers any environmental information about, concerning or relating to the various factors, elements and other items stated.

You should interpret ‘any information on’ broadly. Information that would inform the public about matters affecting the environment or enable them to participate in decision-making is

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<sup>1</sup> <https://ico.org.uk/for-organisations/guidance-index/freedom-of-information-and-environmental-information-regulations/regulation-2-1-what-is-environmental-information/#eir3>

likely to be environmental information, even if the information does not directly mention the environment.

You should apply the test about whether the information is on or about something falling within the definitions in regulations 2(1)(a)-(f), and not whether the information directly mentions the environment or any environmental matter.”

15. The Commissioner is satisfied that the information being requested is in relation to the land in question, and a dispute about the ownership of the land. Who owns the land could impact on its use, and so falls under regulation 2(1)(c) as it would affect or likely affect the state of the elements referred to in 2(1)(a) – namely the landscape. The request therefore falls under the EIR.

### **Regulation 11 of the EIR – Representations and Reconsideration**

16. Unlike the FOIA, the EIR specifies that a public authority must offer an internal review and a requestor is entitled to ask for an internal review if they consider that the public authority has failed to comply with the requirement of the EIR.
17. Regulation 11 of the EIR states:

“... an applicant may make representations to a public authority in relation to the applicant’s request for environmental information if it appears to the applicant that the authority has failed to comply with a requirement of these Regulations in relation to the request.”
18. Regulation 11(3) states:

“The public authority shall on receipt of the representations and free of charge

  - (a) Consider them and any supporting evidence produced by the applicant; and
  - (b) Decide if it has complied with the requirement.”
19. Regulation 11(4) of the EIR requires a public authority to notify the applicant of its decision under paragraph (3) no later than 40 days after the date the request for an internal review is received.
20. In this case, the complainant requested his internal review on 26 April 2022 and to date, the Commissioner has not been provided with any evidence that the internal review has been conducted and the outcome provided to the complainant.

21. The Commissioner therefore finds that the council has breached Regulation 11(3) of the EIR as it has not carried out an internal review in this case.
22. The Commissioner requires the council to comply with the steps stipulated in paragraph 2 above.

### **Other matters**

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23. The council will need to ensure when complying with this decision notice that, if it decides to further to refuse the request, it cites an exception(s) under the EIR, not an exemption under the FOIA. This means that section 14(2) of the FOIA is not available.

## Right of appeal

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24. 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](mailto:grc@justice.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

25. 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.
26. 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 .....**

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