

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

Date: 29 July 2024

Public Authority: Wirral Council
Address: PO Box 290
Brighton Street
Wallasey
CH27 9FQ

Decision (including any steps ordered)

1. The complainant requested information from Wirral Council (the public authority) between the dates of 12 December 2023 to 7 May 2024. By the date of this notice the public authority had not issued substantive responses to these requests.
2. The Commissioner's decision is that the public authority has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR and section 10 of FOIA.
3. The Commissioner requires the the public authority to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to each request in accordance with its obligations under the EIR and FOIA.¹
4. The public authority must take these steps within 30 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

¹ The Commissioner expects the public authority to take appropriate precautions to protect any personal data when disclosing information in a spreadsheet or similar format; [Information Commissioner's Office - Advisory note to public authorities | ICO](#)

pursuant to section 54 of the Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. The complainant made the following requests for information to the public authority:

12 December 2023

"Hi there, Can I please have the following: The botanical survey carried out by Wirral Council over the summer of 2023 on Hoylake Beach The Habitats Regulations Assessments done on both options put forward on the beach to Natural England The applications for assent on both options put forward on the beach to Natural England The details of both refined options on Hoylake Beach Additionally, how much has the development of the two options cost the council since the meeting on November 30 2022? What is the total cost of developing a beach management plan for Hoylake Beach to date? How much in consultancy fees have been paid to Royal Haskoning DHV?";

23 January 2024

"Can I have the full versions of the council's project management and delivery regeneration plans that were presented to the Independence Assurance Panel? These were referenced in the panel's latest letter - "Again it was positive Email Fwd: Internet Request: CR... to see the project management and delivery plans that you have now put in place and we would anticipate that the MTFS that is presented to February 2024 Council reflects the anticipated levels of spend over the 3 year period of the plan. This will enable Members to effectively monitor both delivery and spend going forward.""

12 February 2024

"Can I have the following information related to this key officer decision:
<https://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=5557> How much money was spent on this strategic acquisition including Email Fwd: Internet Request: CR... any fees associated with the purchase? How was this acquisition funded? What site or building was purchased and what are the boundaries? What was the reason for the purchase and can I have the full details of any plans for the site going forward?"

7 March 2024:

"Following on from this in the letter sent by Mr Hughes, he said C+W were first appointed in the summer of 2022 via officer decision. I have looked through the officer decision notices from March 2022 to the end of September 2022. I could not find a reference to a contract to Corstorphine and Wright. I have also checked 2023 in case this was a typo. However there are two contracts awarded during 2022 that could be the one Mr Hughes is referring to. One is the appointment of a design lead for the Birkenhead waterfront. No details of this contract were made public but it was made a few days before the first payment to Corstorphine and Wright in August 2022.

<https://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=5074> The other is from June 2022 that was directly awarded through the NHS Framework in relation to the offices, the same method to award known contracts to C+W listed on Proactis.

<https://democracy.wirral.gov.uk/ieDecisionDetails.aspx?ID=5037> Can you confirm if either of these is the officer decision that appointed Corstorphine and Wright in 2022? If it is not either of these contracts, can you provide the reference or link to the officer decision that did?

20 February 2024

"Can I have all correspondence between council officers as well as between councillors and any council employee related to the decision to move forward and publish the two options with the second stage of the Hoylake Email Fwd: Internet Request: CR... Beach consultation? Can I also have all correspondence between Natural England representatives and council officers regarding the two options put forward for the second stage of public consultation as published on the council's Have Your Say website?

<https://haveyoursay.wirral.gov.uk/hoylake-beach-management-plan> Who made the decision to override the November 30 committee decision that "any options proposed for final public consultation must meet NE full approval?" Neither option put forward has Natural England approval."

7 May 2024

"In your latest response, you said:

"You were asking about the existence of conflicts, not the forms I referred to in the original response."

I asked about the existence of conflicts of interest in my original FOI which the council were aware of and what steps were taken to address

them which I followed up on Feb 16. I still do not feel I have had a full response on this. Can I have a full response on what conflicts exist in relation to these contracts to Corstorphine and Wright as requested in my original FOI and how the council has addressed them?"

Reasons for decision

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

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

7. 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."

8. Section 1(1) of FOIA states that:

"Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

9. Section 10(1) of FOIA states that a public authority must respond to a request promptly and "not later than the twentieth working day following the date of receipt".

10. The Commissioner contacted the public authority on 2 July 2024 reminding it of its responsibilities and asking it to provide substantive responses to the complainant within 10 working days. The Commissioner also advised them that if they had already provided responses to any of the requests, to provide us with copies of these.

11. The public authority did provide the complainant with responses to two other requests but not to the information requests stated above.

12. Despite our intervention the public authority has failed to respond to the requests stated within this Notice.

13. From the evidence provided to the Commissioner in this case, it is clear that the public authority did not deal with the requests for information in accordance with the EIR and FOIA. The Commissioner's decision is that the public authority has breached regulation 5(2) and 10(1) by failing to respond to any of the requests within 20 working days and it is now required to respond to each request in accordance with the EIR or FOIA.

Right of appeal

14. 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

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

15. 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.
16. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Information Commissioner's Office
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