

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

Decision notice

Date: 24 October 2016

Public Authority: Anglian Water
Address: 1 Lancaster House, Lancaster Way
Ermine Business Park
Huntington
PE29 6YJ

Decision (including any steps ordered)

1. As part of a wider request concerning sewage pumping stations, the complainant has requested information about reported sewage overflows from a particular overflow site – a road in Dereham. Anglian Water disclosed some information. The complainant considers that Anglian Water holds further relevant information that it has not disclosed.
2. The Commissioner's decision is that Anglian Water has disclosed all the relevant information that it holds, and has met its obligation under regulation 5(1) of the EIR. The Commissioner finds that Anglian Water breached regulation 5(2), however, because it did not respond to the request within 20 working days. The Commissioner does not require Anglian Water to take any steps.

Request and response

3. On 11 January 2016, the complainant wrote to Anglian Water and requested information in the following terms, as part of a five part request:

"5. For trending analysis purposes the number of reported sewage overflows from the subject overflow site since 2005 (i.e. the last 10 years) broken down by month ideally, or by year if better granularity of

data is not available. Clearly if more historic data/better granularity is also available that would be most useful."

4. Anglian Water responded on 26 July 2016. It released information relevant to this part of the request.
5. Following an internal review Anglian Water wrote to the complainant on 17 August 2016. It said that it had identified further information relevant to this part of the request which it sent to the complainant, explaining why it had not been identified initially. The Commissioner has seen all the released information.

Scope of the case

6. The complainant contacted the Commissioner on 23 August 2016 to complain about the way his request for information had been handled. He confirmed to the Commissioner that his complaint concerns Anglian Water's response to part 5 of the request; namely, that he considers it holds further relevant information.
7. The Commissioner's investigation has focussed on whether, at the time of his request and on the balance of probabilities, Anglian Water held additional information that it has not released to the complainant. The Commissioner has also considered whether Anglian Water met its obligation under regulation 5(2) with regard to the length of time it took to respond to the request.

Reasons for decision

Regulation 5(1) – access to environmental information

8. Regulation 5(1) of the EIR says that a public authority that holds environmental information shall make it available on request.
9. In its response of 26 July 2016, with regard to part 5 of the request, Anglian Water had released to the complainant a spreadsheet that provided details of sewage overflows since 2005 to 5 July 2016. It noted that the spreadsheet only included incidents that were reported to Anglian Water.
10. In his request for an internal review, the complainant advised Anglian Water that he was aware of eight additional sewage overflows that had not been included in the spreadsheet Anglian Water had released. According to the complainant, five of these had happened from 31

August 2015 to 7 January 2016, and three had happened from 9 March 2016 to 23 June 2016. The complainant told Anglian Water that he was also aware of five incidents that had been reported through Anglian Water's flood report telephone line, and that none of these appear on the spreadsheet. The complainant gave dates when he knew three of these five calls had been made; two were before 11 January 2016.

11. In its internal review, Anglian Water said that it considered, at the time of its response, that the data it disclosed had included all results that showed any reported sewage overflows on the road that is the subject of the complainant's interest. It said the disclosed information was taken from its Customer Services system which is used to record both internal and external flooding events. Having investigated further, using the dates the complainant had provided, Anglian Water had identified seven of the incidents, including the five that had happened prior to the complainant's request of 11 January 2016. It released this information to the complainant and advised that it did not have a record of an eighth incident on 31 May 2016.
12. Anglian Water explained that its initial search was done using postcodes which it considered gave it an accurate result. On further investigation it found that some postcode data was missed during its search, which meant that the additional incidents above were not picked up. Anglian Water confirmed that it has changed its procedure and will not search solely on postcodes in the future.
13. In its internal review, Anglian Water also acknowledged that it had taken too long to respond to the complainant's request and apologised for this.
14. The complainant was initially concerned that Anglian Water held no information on the incident that he said had occurred on 31 May 2016. The Commissioner explained that Anglian Water was only obliged to release any information relevant to his request that it held at the time it received the request ie on 11 January 2016. Although not obliged to, because of the delay in providing a response and subsequently a review, Anglian Water had provided information on incidents that had occurred after he had submitted his request. On 11 January 2016, it would not have held information on any 31 May 2016 incident. So whether or not Anglian Water holds information about an incident on 31 May 2016 could not be within the scope of the Commissioner's present investigation. The complainant accepted this was the case.
15. The complainant remains concerned that Anglian Water may hold further relevant information from 2005 up to 11 January 2016 that it has not retrieved and released. He says that, on review, Anglian Water found seven of the eight incidents to which he had referred it to, but that there is the possibility that it holds information on additional incidents that

have occurred during this period but which he personally does not know about.

16. In its submission, Anglian Water has told the Commissioner that it interpreted the complainant's request for *'the number of reported sewage overflows'* to mean data recorded on its DG5 register.
17. Prior to 2011, Anglian Water says that all water and sewage companies were subject to an annual performance assessment. The measured performance in relation to water supply, sewerage service, customer service and environmental performance. The economic regulator – Ofwat – conducted this comparative performance assessment, after all the companies had submitted their relevant data tables. One element of the assessment focussed on the number of properties affected by internal flooding due to overloaded sewers. This is referred to in the industry as the 'DG5' service standard. In order to provide this information to Ofwat, Anglian Water maintained a database of internal flooding events known as the DG5 register.
18. Since 2011, Ofwat has adopted a new 'risk-based' approach to regulation. Anglian Water is now required to submit an annual risk and compliance statement, as opposed to specific performance metrics. Accordingly, Anglian Water says that Ofwat no longer requires it to record DG5 information about properties experiencing internal flooding due to overloaded public sewers. As such, Anglian Water is no longer required to maintain a DG5 register.
19. Anglian Water says that it has chosen to maintain a form of the DG5 register in order to monitor instances of flooding. The information that makes up its DG5 register is generally supplied by customers who contact it (either by phone or in writing) to report a sewer flooding incident. Its call centre asks scripted questions to understand the incident and to establish if it relates to an Anglian Water asset. If Anglian Water assets are involved, it raises a work order on its system (SAP). The work order is an instruction to send out a network technician to undertake appropriate work or to carry out an investigation, as appropriate.
20. Anglian Water has told the Commissioner that its initial search of its SAP system was a search on a particular postcode. This missed the incidents listed by the complainant. Anglian Water now recognises that there are other postcodes on the road in question, because of its length. The second search Anglian Water carried out was therefore a search on the name of the road. This picked up additional incidents to which the complainant had referred. Anglian Water has confirmed that it will not search solely on postcodes in the future, to make sure this error does not happen again.

21. Anglian Water's initial search using a specific postcode identified incidents back to 2005 which were released to the complainant in July 2016. Its additional search under the name of a specific road identified further incidents, which it released to the complainant in August 2016. Having considered Anglian Water's submission, the Commissioner is prepared to accept that, on the balance of probabilities, Anglian Water holds no further information within the scope of the complainant's request. The Commissioner has noted that Anglian Water intends to search under terms in addition to postcodes in the future, so that all the information relevant to a request will be identified first time.

Regulation 5(2) – time for compliance

22. Regulation 5(2) says that a public authority must comply with regulation 5(1) as soon as possible and no later than 20 working days after the date it receives the request.
23. In this case, the complainant submitted his request on 11 January 2016. He did not receive a response until 26 July 2016, and did not receive all the information he requested until 17 August 2016. This is a clear breach of regulation 5(2). The Commissioner expects Anglian Water to improve its handling of responses, so that future applicants receive responses to their requests within the 20 working day time limit.

Right of appeal

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@hmcts.gsi.gov.uk
Website: 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

Pamela Clements
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