

Freedom of Information Act 2000 (Section 50) Environmental Information Regulations 2004

Decision Notice

Date: 8 March 2011

Public Authority: Homes and Communities Agency
Address: 110 Buckingham Palace Road
London
SW1W 9SA

Summary

The complainant requested information that the public authority had considered or generated in respect of a particular land development in Liverpool. The public authority asserted that it had disclosed all the requested information it held but this was disputed by the complainant. Following investigation the Commissioner concluded that, on the balance of probabilities, the public authority had ultimately disclosed all the requested information it held save for certain emails contained on back up tapes which it may hold.

The Commissioner has found procedural breaches of the Act and the EIR as a result of information disclosed to the complainant during the course of his investigation for which it had not initially accounted. In respect of certain further emails it may hold on back up tapes, the Commissioner requires the public authority to provide a response to the complainant in accordance with the Act and the EIR.

The Commissioner's Role

1. The Commissioner's duty is to decide whether a request for information made to a public authority has been dealt with in accordance with the requirements of Part 1 of the Freedom of Information Act 2000 (the "Act"). This Notice sets out his decision.
2. The Environmental Information Regulations (EIR) were made on 21 December 2004, pursuant to the EU Directive on Public Access to Environmental Information (Council Directive 2003/4/EC). Regulation 18 provides that the EIR shall be enforced by the Information Commissioner (the "Commissioner"). In effect, the enforcement

provisions of Part 4 of the Freedom of Information Act 2000 (the "Act") are imported into the EIR.

Background

3. The Homes and Communities Agency (HCA) is a non-departmental public body that funds new housing in England (Housing and Regeneration Act 2008). It became operational on 1 December 2008 when, amongst other things, it took over functions from its predecessor English Partnerships. The information requested related to land and property development in Liverpool.

The Request

4. The complainant, on 10 June 2009, asked the public authority to provide him with copies of all correspondence/communication and proposals, both internal and external, between English Partnerships/Homes and Communities Agency and all parties in relation to the following –
 - a) 2 No Planning applications on behalf of the complainant.
 - b) Land owned by the complainant on both sides of Blackstock St.
 - c) English Partnerships and landowners planning application which included the complainant's land.
5. The public authority, under cover of a letter dated 10 August 2009, supplied the complainant with information falling within the scope of this request. In the covering letter the public authority informed the complainant that the information it was providing him with constituted the majority of the requested information it held. However it informed him that it had withheld the remainder of the requested information and to do so relied on section 43 of the Act and, in relation to information it considered to be environmental, regulation 12(4)(e) of the EIR.
6. The complainant, in a letter to the public authority dated 28 August 2009, expressed his dissatisfaction with its handling of his request for information. The public authority, in a letter to the complainant dated 25 November 2009, explained to him that they had treated his letter of 28 August 2009 as his request that it reviewed its original decision and that it had undertaken the same. A consequence of the review was that the public authority released some of the information it had previously withheld. The public authority then explained that the information that

it continued to withhold was withheld by reference to section 43(2), and now also by section 42 of the Act, and by regulation 12(4)(e) of the EIR.

The Investigation

Scope of the case

7. On 21 January 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. As the public authority subsequently withdrew its reliance on provisions of the Act and the EIR to withhold the remaining information (as detailed below), the grounds of the complaint to the Commissioner changed. As a consequence, the complainant disputed that the public authority had disclosed to him everything it held which fell within the scope of his request. The Commissioner therefore proceeded to investigate this point.

Chronology

8. The Commissioner, as part of his substantive investigation, wrote to the public authority on 21 April 2010 requesting that it explained in detail its legal basis for withholding the remaining requested information from the complainant. The public authority, in a letter dated 1 June 2010, explained to the Commissioner that upon reconsidering the withheld information it had determined that the balance of the public interest had shifted since its original decision. It stated that it was now able to release the remaining withheld information to the complainant. Consequently, in a letter dated 3 June 2010 the public authority provided the complainant with, in its view, the last of information it had withheld.
9. The Commissioner, in correspondence dated 11 June 2010, asked the complainant if he was now willing to withdraw his complaint as the public authority had apparently released all the withheld information. The complainant however (in correspondence dated 11 June 2010) informed the Commissioner that he did not accept that all the requested information had been communicated to him. This assertion was put to the public authority by the Commissioner under cover of correspondence dated 9 July 2010.
10. On 24 August 2010 the public authority wrote to the Commissioner, explaining that on the receipt of his email of 9 July 2010 it had undertaken further investigations to establish whether there was any additional information which was not identified at the time of the original request. It confirmed that it had identified a small amount of

additional information which was not previously forwarded for consideration. It explained that it did not know why this information was overlooked at the time of the original request, but believes that "it was merely a matter of human error whilst reviewing the files". It went on to say that a large amount of information was considered for disclosure, and it suspected that in the process this small amount of additional information was overlooked.

11. On 24 August 2010 the public authority provided the complainant with this late discovered information. On 6 September 2010 the complainant wrote to the public authority, whilst acknowledging receipt of the information, expressing the view that he believed that it still had not provided him with all the information within scope of his original request. In a reply (dated 27 October 2010) the public authority informed the complainant that it had disclosed to him all the requested information it held.
12. The complainant also wrote to the Commissioner to explain why, in his view, the public authority had not released all the requested information. To support this contention the complainant referred the Commissioner to the contents of documents the public authority had released to him, as follows:

"Document 1 shows a meeting to discuss the development opportunity for English Partnerships at Leeds St. This directly relates to our lands and clearly shows reference to developers and amounts of money. Yet there is no evidence of any correspondence or meetings between these developers and English Partnerships.

Document 2 states, in the first paragraph, that approval was gained by English Partnerships in September 2007 for a planning application which includes our lands. There is no evidence of the meeting at which approval was granted or indeed any correspondence relating to the decision to amend the application site from the one which formed the basis of the Memorandum of Understanding of 2005.

Document 3 shows an electronic mail that may suggest that further e-mails have not been disclosed.

Document 4 there is no evidence of any Senior Management Team meetings or decisions after the 6th May 2005 despite English Partnerships entering into a Memorandum of Understanding and submitting a planning application that is still ongoing at the time of writing."

13. The Commissioner, on 19 November 2010, asked the public authority the following questions:

- What searches were carried out for information falling within the scope of this request and why would these searches have been likely to retrieve any relevant information?
 - If searches included electronic data, please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.
 - If searches included electronic data, which search terms were used?
 - If the information were held would it be held as manual or electronic records?
 - Was any recorded information ever held relevant to the scope of the complainant's request but deleted/destroyed?
 - If recorded information was held but is no longer held, when did the HCA cease to retain this information?
 - Does the HCA have a record of each document's destruction?
 - What does the HCA's formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the HCA describe the way in which it has handled comparable records of a similar age?
 - If the information is electronic data which has been deleted, might copies have been made and held in other locations?
 - Is there a business purpose for which the requested information should be held? If so what is this purpose?
 - Are there any statutory requirements upon the HCA to retain the requested information?
14. In correspondence dated 16 December 2010 the public authority responded to the Commissioner questions. The contents of this correspondence are reproduced in Annex A to this Notice.
15. In correspondence to the Commissioner dated 27 January 2011 the public authority provided its reply to the complainant's assertions as laid out in paragraph 12 above. It stated as follows:

“Document 1

As advised in our previous correspondence, we have undertaken a comprehensive search of our records, and have provided all information held to [the complainant]. We appreciate his suggestion that the document conveys evidence of further information held by HCA, but would stress that we have undertaken a thorough search of our records and have provided all information held to [the complainant]. Furthermore, we do not accept that further information necessarily exists simply because a document suggests it may have done.

Document 2

As advised above, [the complainant's] allegations relate to information outside the scope of his Request for Information. This paper refers to Limekilns, a separate development area to Blackstock Street (the subject of his request and this complaint).

Document 3

Our previous correspondence provided details of the HCA's records management and retention policy. It advised that there is no obligation on staff to keep information that is purely discursive in nature. [The complainant] has suggested that this information “would be held on [our] electronic system”; however, as previously advised we have completed a thorough search of our structured filing system and have provided [the complainant] with all information contained therein. HCA does maintain a back up of all email correspondence, downloaded nightly. However, deleted items are not retained, and furthermore the time taken to locate, extract, and access the relevant back up tape in order to establish whether or not a particular email has been saved would far exceed the 18 hour statutory time limit for that item alone.

Document 4

[The complainant] has observed the absence of any evidence of Senior Management meetings following that of 6 May 2005. We would, again, stress that we have undertaken a thorough search of our records and have provided all information to [the complainant]. We have also carried out a search of our Meetings and Decisions database, which stores papers relating to senior level meetings, and have nothing recorded for Blackstock Street or Leeds Street North Area.”

16. The public authority, in a letter to the Commissioner dated 17 February 2011, explained that the complainant had recently submitted a further

request for information. The public authority informed the Commissioner that as part of its investigations into that new request for information, it had discovered a reference to archived documents (a paper submitted to a meeting and relevant extracts of the accompanying minutes) that contained information that fell within the complainant's information request that is the subject matter of this Decision Notice. These documents, it explained, were stored on an archived system (as they pre-dated the establishment of the public authority), and neither a hard copy nor an electronic copy were appended to the relevant files. Furthermore, these documents relate to "Limekilns", an area which is outside the exact scope of the complainant's request (which was for information relating to Blackstock Street). Hence it had not located this document in any of the earlier searches undertaken, as the search terms required were outside the scope of the complainant's request, and the availability of the archived system were limited.

17. This further information was conveyed to the complainant under cover of a letter dated 23 February 2011. On 4 March 2011, the public authority confirmed to the Commissioner that as a result of finding this further information, it had trawled through the archived system (referred to in the previous paragraph) and was satisfied that no further information falling within the scope of the request was held.

Analysis

Substantive Procedural Matters

18. The Commissioner conducted his analysis in this case under the terms of both the Act and the EIR. This is because the public authority identified some of the information it held in relation to this case as being environmental and the remainder as falling within the scope of the Act. The Commissioner's understanding of the information disclosed to the complainant accords with this position. Therefore the Commissioner is of the view that if any further information is held in relation to this case it will either be environmental, non-environmental, or a combination. Further, as the information disclosed to the complainant constitutes both categories of information, any breaches of legislation in relation to its late disclosure must also relate to both the EIR and the Act.

Section 1(1)(b) – General right of access to information held

Regulation 5(1) – Duty to make available environmental information on request

19. The normal standard of proof to apply in determining whether a public authority holds any requested information is the civil standard of the balance of probabilities. In deciding where the balance lies, the Commissioner will consider the scope, quality, thoroughness and results of the searches carried out by the public authority as well as considering, where appropriate, any other reasons offered by the public authority to explain why the information is not held. The Commissioner will also consider any evidence that further information is held, including whether it is inherently unlikely that the information so far located represents the total information held.
20. The Commissioner accepts that occasionally information may come to light after a public authority has indicated that it does not hold it. In such cases, the Commissioner will consider whether this late discovery of relevant information affects his assessment of the public authority's scope, quality, thoroughness and results of the initial search. Further, such a discovery may affect the persuasiveness of other arguments raised by the public authority to explain why the information is not held, for example, where a public authority has argued that the information has been destroyed according to their destruction schedule but is discovered after the date of disposal. The Commissioner will also consider the content of information which has been disclosed in order to consider whether this reveals anything about the existence of other information.
21. The Commissioner acknowledges that the public authority has on occasions informed both himself and the complainant that it has located and communicated to the complainant all the information it held only for it to subsequently locate further information. The Commissioner can therefore appreciate, among other reasons, why the complainant believes that there is further information held which has not been disclosed to him.
22. The Commissioner notes that the initial search by the public authority was incomplete as further information was later discovered. This omission was, the public authority asserts, rectified when the additional information was provided to the complainant. It is not possible to say, with any certainty, how this original search was done or the extent of it as the Commissioner understands that those responsible for that search are no longer employed by the public authority.

23. However the public authority has provided the Commissioner with details of its later efforts it made to locate any previously undiscovered information (see Annex A). It has explained the extensive searches which have been carried out of its electronic and paper records. In addition, it has provided details of the officers within the public authority who had undertaken of the later searches. The Commissioner notes that the information subsequently disclosed by the public authority is of some considerable volume and approximates with what the Commissioner considers is the volume of information the request would yield.
24. The Commissioner is also satisfied that the public authority has now adequately accounted for any information contained within the archived system from which it disclosed further information in relation to this case on 23 February 2011.
25. However, as noted above the complainant averred that a disclosed email appeared to be part of a chain of emails and that those other emails had not been disclosed. In response to this particular point the public authority was not clear that it does not hold that which was referred to. As set out above, it stated that its search was restricted to its structured filing system and did not include back-up tapes. For those tapes, it did not confirm that it does not contain any relevant emails. Instead it stated that "the time taken to locate, extract, and access the relevant back up tape in order to establish whether or not a particular email has been saved would far exceed the 18 hour statutory time limit for that item alone".
26. The Commissioner has considered this response, and on balance has reached the view that it does not constitute a sufficient assertion that these back up tapes would not contain any further information.
27. The Commissioner's general view with regard to back up tapes is that any information on them would not be 'held' for the purposes of the Act / EIR if it is clear that the specific information was intentionally deleted from its primary data store in accordance with that public authority's retention and disposal records policy. However, in respect of the information referred to in relation to back-up tapes in this case, the Commissioner has not been provided with sufficient evidence that this was the case.
28. Instead, the public authority's response to the Commissioner focuses on the difficulty it would face in order to identify relevant information from the tapes and no analysis was provided of the likelihood as to whether any further such information would be held on them. Furthermore, the public authority has not issued the complainant with

a notice that relies on section 12 (which provides a limit on “the time taken to locate, extract and access” information) in order not to comply with, whether in whole or in part, the information request. Nor has it relied on any appropriate regulation in the EIR.

29. The position in relation to back up tapes is therefore in contrast to the public authority’s explanations and evidence in relation to whether it holds any further information elsewhere, for which the Commissioner is prepared to accept that on the balance of probabilities no further information is held.
30. In conclusion, in light of the evidence and arguments provided by the public authority, and his consideration of the information disclosed to the complainant, the Commissioner is satisfied that, on the balance of probabilities, it ultimately located and conveyed to the complainant all the information he had requested which it held at the time of that request save for any further relevant emails it may hold on back up tapes which it has not identified.

Other Procedural Requirements

31. In respect of the information disclosed to the complainant on 10 August 2009, 24 August 2010 and 23 February 2011, by not providing it to the complainant within 20 working days of the request, the public authority breached section 10(1) of the Act and regulation 5(2) of the EIR.

The Decision

32. The Commissioner has decided that the following elements of the request were not dealt with in accordance with the Act / EIR:
 - Breach of section 10(1) of the Act and regulation 5(2) of the EIR in relation to the information both found and disclosed to the complainant outside of 20 working days of the request.
 - Breach of section 1 of the Act and regulation 5(1) of the EIR in failing to account, in accordance with the legislation, for any further relevant information held on back up tapes.

Steps Required

33. The Commissioner requires the public authority to take the following steps to ensure compliance with the Act / EIR:

Provide the complainant with a response in accordance with the Act and the EIR in relation to any further information it may hold falling within the scope of the request which is contained on back up tapes.

Failure to comply

34. Failure to comply with the steps described above may result in the Commissioner making written certification of this fact to the High Court (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Right of Appeal

35. 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,
Arnhem House,
31, Waterloo Way,
LEICESTER,
LE1 8DJ

Tel: 0845 600 0877

Fax: 0116 249 4253

Email: informationtribunal@tribunals.gsi.gov.uk.

Website: www.informationtribunal.gov.uk

36. 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.
37. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Decision Notice is sent.

Dated the 8th day of March 2011

Signed

**Alexander Ganotis
Group Manager – Complaints Resolution**

**Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF**

Annex A – Public Authority’s response to the Commissioner’s detailed questions

The public authority, in correspondence dated 16 December 2010, answered the Commissioner questions directly as follows:

Records Management

[The public authority] employs two individuals directly dedicated to maintaining effective records management procedures and promoting good records management practice. These individuals are members of the Legal Services team, and report directly to the Deputy Head of Legal Services. One of these colleagues, the Registry Officer, is responsible for developing and maintaining the Agency’s File Lists on Computers (FLOC) system, and supervising a national network of Records Liaison Officers who facilitate its operation at a local level. FLOC is the system used for ensuring that each team has appropriate, easily accessible files, which are classified in a consistent and organised manner. FLOC generates a paper file for use by the team, along with a separate electronic file in our Structured Filing System (SFS). This system enables teams to store information in hard copy or electronic format, whichever is more appropriate to the information in question. It means that a consistent, controlled and efficient method of record retrieval is applicable regardless of local or individual preferences in recording information.

The decision as to what information is retained is made predominately at a local level by the information “owner”, under Records Management guidance and in line with the Records Management Policy. Colleagues are advised to keep records of business decisions, along with any information which demonstrates the background to that decision. They are not required to retain correspondence that is purely discursive, or to retain information solely on the basis that it may be requested in the future. We have provided to you our Records Management Policy and Retention Schedule in order that you may familiarise yourself with the Agency’s practices (the relevant FLOC category is 37 Projects). We would, however, point out that the HCA was formed on 1 December 2008, and that much of the information that was the subject of complainant’s request was created and collated prior to the formation of the Agency by its predecessor body, English Partnerships.

What searches were carried out for information falling within the scope of this request and why would these searches have been likely to retrieve any relevant information?

Upon receipt of the request for information, the Head of Area Merseyside and Cheshire was notified of the request and commenced the search for information. As the Head of Area has now departed we are unable to verify

with her personally what searches she undertook. However, the IAO was provided with an extensive amount of information, which was replicated from the relevant FLOC files. In response to the complainant's recent assertion that this did not provide him with all the information he required, we undertook a further search in August this year, which revealed additional information which was apparently overlooked by the original search. We do not believe that this omission was deliberate or intentional, but was more likely the result of an assumption that the additional information fell outside the very precise wording of complainant's request. This information has now, as you are aware, been provided to the complainant, and we have made every effort to ensure all information held by the HCA has now been located and communicated to him.

In answer to the second part of your question, we can advise that the Agency holds a number of files which are committed exclusively to the information to which complainant's request referred. As such, the identification of these files was certain to yield information within the scope of his request.

If searches included electronic data, please explain whether the search included information held locally on personal computers used by key officials (including laptop computers) and on networked resources and emails.

As advised above, as the individual who coordinated the original search has now left the Agency, we are unable to verify precisely what actions were completed at that time. With regards to the additional search completed earlier this year, we can confirm that whilst this focused primarily on identifying what hard copy information was previously omitted we have reviewed this information against that stored electronically, and have not been able to identify any additional information.

If the information were held would it be held as manual or electronic records?

As we have not been provided with details of the precise information which complainant alleges to be missing from that provided to him, we cannot conclusively advise whether that information, if held, would have been kept as a manual or electronic record. However, we hope that the above explanation helps contextualise the manner in which HCA records are stored, and the mechanism via which they are organised and managed.

Was any recorded information ever held relevant to the scope of the complainant's request but deleted / destroyed?

Whilst we cannot conclusively confirm that information has been deleted / destroyed, neither are we able to confirm that it has not. As explained above, HCA employees are instructed to retain certain information if it is required as a business record, but they are under no instruction to retain all information that merely relates to a particular issue, or to keep information simply in anticipation of a future request for information. It is therefore possible that information within the scope of complainant's request was deleted / destroyed as part of the team's routine record housekeeping procedures, prior to the receipt of his request.

If recorded information was held but is no longer held, when did the HCA cease to retain this information?

Without knowledge of the precise information it is claimed we have not provided, we are unable to provide a detailed response to this question. We would, however, advise that it is reasonable that non-essential information was deleted / destroyed in line with the team's routine record housekeeping procedures.

What does the HCA formal records management policy say about the retention and deletion of records of this type? If there is no relevant policy, can the HCA describe the way in which it has handled comparable requests of a similar age?

As we do not know what particular information it is alleged we have not provided, we cannot advise on the Records Management Policy's position on records "of this type". However, we have provided you with the Agency's Records Management Policy and Retention Schedule, and would welcome any further questions you may wish to raise upon its review.

If the information is electronic data which has been deleted, might copies have been made and held in other locations?

As advised above, without knowledge of the precise information we cannot advise whether it would have been held electronically, and if copies could have been kept in other locations. However, as colleagues routinely print electronic information to file, it is likely that any information, if held, would have been stored in hard copy format.

Is there a business purposes for which the requested information should have been held? If so what is this purpose?

The HCA's Records Management Policy details the purposes for which information should be retained. We are not aware of any business records having been deleted / destroyed.

Are there any statutory requirements upon the HCA to retain the requested information?

HCA is a Public Records Body, and as such we have an obligation to retain certain records for the purpose of the Public Records Act. However, we believe it is unlikely that any information relating to the complainant's request would have had the potential to have been caught by the requirements of the Public Records Act.

Legal Annex

Freedom of Information Act 2000

General Right of Access

Section 1(1) provides 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."

Time for Compliance

Section 10(1) provides that –

"Subject to subsections (2) and (3), a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following the date of receipt."

Exemption where cost of compliance exceeds appropriate limit

Section 12(1) provides that –

"Section 1(1) does not oblige a public authority to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the appropriate limit."

Section 12(2) provides that –

"Subsection (1) does not exempt the public authority from its obligation to comply with paragraph (a) of section 1(1) unless the estimated cost of complying with that paragraph alone would exceed the appropriate limit."

Section 12(3) provides that –

"In subsections (1) and (2) "the appropriate limit" means such amount as may be prescribed, and different amounts may be prescribed in relation to different cases."

Section 12(4) provides that –

“The secretary of State may by regulations provide that, in such circumstances as may be prescribed, where two or more requests for information are made to a public authority –

(a) by one person, or

(b) by different persons who appear to the public authority to be acting in concert or in pursuance of a campaign,

the estimated cost of complying with any of the requests is to be taken to be the estimated total cost of complying with all of them.”

Section 12(5) – provides that

“The Secretary of State may by regulations make provision for the purposes of this section as to the costs to be estimated and as to the manner in which they are estimated.”

Regulation 4(3) of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 states as follows:-

“In a case in which this regulation has effect, a public authority may, for the purpose of its estimate, take account only of the costs it reasonably expects to incur in relation to the request in –

- determining whether it holds the information,
- locating the information, or a document which may contain the information,
- retrieving the information, or a document which may contain the information,
- extracting the information from a document containing it.”

Legal Professional Privilege

Section 42(1) provides that –

“Information in respect of which a claim to legal professional privilege or, in Scotland, to confidentiality of communications could be maintained in legal proceedings is exempt information.”

Section 42(2) provides that –

“The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would involve the disclosure of any information (whether or not already recorded) in respect of which such a claim could be maintained in legal proceedings.”

Commercial interests

Section 43(1) provides that –

“Information is exempt information if it constitutes a trade secret.”

Section 43(2) provides that –

“Information is exempt information if its disclosure under this Act would, or would be likely to, prejudice the commercial interests of any person (including the public authority holding it).”

Section 43(3) provides that –

“The duty to confirm or deny does not arise if, or to the extent that, compliance with section 1(1)(a) would, or would be likely to, prejudice the interests mentioned in subsection (2).”

Environmental Information Regulations 2004

Regulation 2(1)

In these Regulations –

.....

“environmental information” has the same meaning as in Article 2(1) of the Directive, namely any information in written, visual, aural, electronic or any other material form on –

- (c) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (d) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a);
- (e) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect those elements;

- (f) reports on the implementation of environmental legislation;
- (g) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c) ; and
- (h) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of elements of the environment referred to in (b) and (c);

Regulation 5(1)

Subject to paragraph (3) and in accordance with paragraphs (2), (4), (5) and (6) and the remaining provisions of this Part and Part 3 of these Regulations, a public authority that holds environmental information shall make it available on request.

Regulation 5(2)

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.

Regulation 12(4)

For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

- (a) it does not hold that information when an applicant's request is received;
- (b) the request for information is manifestly unreasonable;
- (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
- (d) the request relates to material which is still in course of completion, to unfinished documents or to incomplete data; or
- (e) the request involves the disclosure of internal communications.