

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

Date: 9 January 2017

Public Authority: Department for Communities and Local Government
Address: Fry Building
2 Marsham Street
London
SW1P 4DF

Decision (including any steps ordered)

1. The complainant has requested information regarding the Planning Sounding Board. The Department for Communities and Local Government (the Department) provided part of the requested information, but withheld the remainder stating regulations 12(4)(e) – internal communications, and 12(5)(d) – confidentiality of proceedings, were engaged. During the course of the Commissioner's investigation, the Department disclosed the remaining information.
2. The Commissioner's decision is that in providing the information outside the prescribed 20 working day time frame, the Department has breached regulation 5(2). However, as the information has been disclosed, the Commissioner does not require the Department to take any steps.

Request and response

3. On 19 April 2016 the complainant made the following request for information under the FOIA for:

"Planning Sounding Board:

- 1. A full list of members of the board (I note the press release suggests that it has only published a selection)*
- 2. Copies of the Agendas and chair's brief produced by the board secretariat*
- 3. Any written advice received by the department from board members under the terms of reference (under the formal reporting and feedback section of the TOR) and any papers commissioned by the secretariat".*

4. The Department responded on 17 May 2016 and provided the information at question 1. It refused to provide the information at questions 2 and 3 relying on the exceptions at 12(4)(e) – internal communications and 12(5)(d) – confidentiality of proceedings.
5. The Department provided an internal review on 15 June 2016 in which it maintained its original position.

Scope of the case

6. The complainant contacted the Commissioner on 4 July 2016 to complain about the way his request for information had been handled. In particular, he complained that the requested information had been withheld.
7. During the course of the Commissioner's investigation, the Department released the previously withheld information stating to the complainant that this was in line with the Commissioner's preference for informal resolution of complaints.
8. The Commissioner therefore approached the complainant to find out if he was now content to withdraw his complaint, or if he still required that the Commissioner issue a formal decision notice. The complainant confirmed that he required a decision notice.
9. The scope of this case therefore is to record a procedural breach of regulation 5(2).

Reasons for decision

10. Regulation 5(1) of the EIR says that a public authority that holds environmental information shall make it available on request.
11. Regulation 5(2) says that held information shall be made available as soon as possible and no later than 20 working days after the date of receipt of the request.
12. In this case, the information was provided to the complainant during the course of the Commissioner's investigation on 14 November 2016. Further clarification was provided to the complainant by the Department on 15 November 2016.
13. As the information was provided later than the prescribed 20 working days, the Commissioner finds that the Department has breached regulation 5(2).

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: 0300 123 4504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.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.

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