

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

Decision notice

Date: 15 February 2012

Public Authority: The Coal Authority
Address: 200 Lichfield Lane
Mansfield
Nottinghamshire
NG18 4RG

Decision (including any steps ordered)

1. The complainant has requested information from The Coal Authority about postcodes for which coal mining and brine searches are required in England and Wales.
2. The Information Commissioner's decision is that the public authority did not deal with the request for information in accordance with the Environmental Information Regulations 2004 (the 'EIR') in that it did not apply the correct legislation when handling the request.
3. He therefore requires The Coal Authority either to provide the information requested in compliance with regulation 5(1) or issue a valid refusal notice that complies with regulation 14 of the EIR.
4. The public authority 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 (or the Court of Session in Scotland) pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 4 November 2011, the complainant wrote to The Coal Authority and requested information in the following terms:

"1. Please supply a list of postcodes for England & Wales for which a coal mining search is required.

2. Please supply a list of postcodes for England & Wales for which a brine search is required.

*Both replies should be provided in *.csv format."*

6. The Coal Authority responded advising that a document entitled the Coal Mining and Brine Subsidence Claims Gazetteer for England and Wales was published on its website and provided the complainant with the relevant URL.
7. On 10 November 2011 the complainant wrote to The Coal Authority stating: *"This is not an acceptable response to a Freedom of Information request. Not only does it not answer the request but the reply does not include the requisite instructions for taking the matter further if the reply is not satisfactory"*.
8. The public authority wrote to the complainant explaining that, whilst its free-of-charge online screening service utilises postcode data as part of the interrogation process, The Coal Authority does not maintain a separate list of relevant postcodes which fall within specific mining areas. This is why it could not supply the information requested by the complainant.
9. The complainant contacted The Coal Authority further stating that its reply was *"incomplete"* and had not followed the Information Commissioner's guidance on how to refuse a request, and he requested a full response.
10. On 21 November 2011 The Coal Authority responded explaining that it was not refusing to provide the requested information but was unable to provide it because it did not hold a list of postcodes for England and Wales for which either a coal mining or brine search is required. It reiterated the availability of the Gazetteer on its website which identified locations for which reports should be required.

Scope of the case

12. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
13. The Commissioner considers that the request should have been handled in accordance with the EIR.

Reasons for decision

14. Although The Coal Authority did not handle the request for information under FOIA, the Information Commissioner has first considered whether the requested information in this case constitutes environmental information and that the correct access regime is, therefore, the EIR.
15. Environmental information is defined in regulation 2 of the EIR as:
- "any information in written, visual, aural, electronic or any other material form **on** ...":*
- the state of the elements of the environment, such as air, water, soil, land;
 - emissions and discharges, noise, energy, radiation, waste and other such substances; and
 - measures and activities such as policies, plans, and agreements affecting or likely to affect the state of the elements of the environment.
16. The Information Commissioner's approach is to interpret "*any information... on*" fairly widely. He does not consider it necessary for the requested information itself to have a direct effect on the environment in order for it to be environmental information. It will usually include information concerning, about, or relating to measures, activities and factors likely to affect the state of the elements of the environment.
17. The Coal Authority works to protect the public and the environment in coal mining areas. It manages the effects of past coal mining, promotes public safety and safeguards the landscape.
18. Having considered the nature and context of the request, the Information Commissioner has concluded that it constitutes environmental information as defined by regulation 2(1)(c) of the EIR. This is because the information in this case relates to information on a measure or activity and the measure or activity in question affects, or is likely to affect, the environment or is designed to protect it.

Right of appeal

19. 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: 0116 249 4253

Email: informationtribunal@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

20. 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.
21. 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

Jon Manners
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