

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

Decision notice

Date: 17 July 2013

Public Authority: Marine Management Organisation

Address: Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

Decision (including any steps ordered)

1. The complainant made a number of requests for information to the Marine Management Organisation ("MMO") about reviews of its systems by the European Commission ("EC") including a request for the contact details of people it was dealing with at the EC. The MMO applied regulation 12(4)(a) (information not held).
2. The Commissioner's decision is that the MMO held information falling within the scope of the request and therefore regulation 12(4)(a) did not apply.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - Issue a fresh response to the complainant under the EIR which does not rely on regulation 12(4)(a).
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 pursuant to section 54 of the Act and may be dealt with as a contempt of court.

Request and response

5. On 15 August 2012 the complainant made a number of requests for information to the MMO about reviews of its systems and processes by the European Commission ("EC"). This included the following request:

"...it would be helpful to have the contact details of the people you are dealing with in the EC so I, and others, can offer appropriate information and data and raise concerns we have. Perhaps you would be good enough to forward the details to me so the material reaches the right people."

6. The MMO responded on 16 August 2012 and stated that:

"...the invitation to the Commission to review the systems we have in place for producing Western waters data was made to the Head of Unit, who has yet to identify those individuals who will hopefully be reviewing our processes, so I am unable to give you their names..."

Scope of the case

7. The complainant contacted the Commissioner on 24 October 2012 to complain about the way her request for information had been handled by the MMO, specifically, that the MMO had argued that it did not hold any relevant information.
8. The Commissioner has considered whether the MMO has complied with EIR in informing the complainant that it did not hold any information falling within the scope of her request.
9. The Commissioner considered this complaint without requiring the complainant to request an internal review due to the overlap with another very similar request made by the complainant.

Reasons for decision

Regulation 12(4)(a) – Information not held

10. Regulation 12(4)(a) provides an exception under the EIR where a public authority does not hold information that has been requested when an applicant's request is received.

11. The MMO argued that, as it had explained to the complainant, initial contact had been made with the EC. However, at the time of the request, the appropriate individuals within the EC who would be liaising with it regarding the review of its processes had not yet been identified. It was therefore unable to confirm who the most appropriate person, within the EC, would have been to handle any public queries in relation to the matter.
12. The Commissioner accepts that, at the time of the request, the MMO may not have held the contact details of those officials who would be carrying out of a review of its systems and processes on behalf of the EC. However, it did hold the contact details of the person at the EC to whom it had addressed its initial correspondence. The Commissioner therefore believes that it held some information that fell within the scope of the request.
13. The Commissioner has determined that, as the MMO held information falling within the scope of the complainant's request, it has incorrectly applied regulation 12(4)(a) to the request. He therefore requires the MMO to issue a fresh response to the complainant under the EIR which does not rely on regulation 12(4)(a).

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 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

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

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