

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 7 January 2022

Public Authority: Environment Agency
Address: Horizon House
Bristol
BS1 5AH

Decision (including any steps ordered)

1. The complainant requested information from the Environment Agency relating to correspondence between senior staff of the Environment Agency and the Director of Environment and Corporate Affairs at Southern Water. By the date of this notice the Environment Agency had failed to provide a substantive response to this request.
2. The Commissioner's decision is that the Environment Agency has breached section 10(1) of the FOIA in that it failed to provide a valid response to the request within the statutory time frame of 20 working days.
3. The Commissioner requires the Environment Agency to take the following steps to ensure compliance with the legislation.
 - Respond to the complainant's request in accordance with the FOIA.
4. The Environment Agency 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 6 September 2021, the complainant wrote to the Environment Agency and requested information in the following terms:

"1) Please provide all correspondence between the senior leadership team of the Environment Agency:

- i) Emma Howard Boyd*
- ii) Sir James Bevan*
- iii) Harvey Bradshaw*
- iv) John Curtin*
- v) Lucy Hunt*
- vi) Caroline Douglass*

And [redacted name], Director of Environment and Corporate Affairs at Southern Water between 1st November 2020 and the date of this request, concerning Southern Water.

Please check departmental emails, official work messaging platforms such as Gchat, and work mobile device text messages.

If private email, WhatsApp, Signal, or other non-departmental platforms have been used for official correspondence, please provide copies of this correspondence as well.

2) Please provide a list of all meetings between the above officials and [redacted name] between 1st November 2020 and the date of this request concerning Southern Water.

3) For each meeting, please provide a copy of the minutes of the meeting, any civil service briefing prepared for the relevant official ahead of the meeting, and the attendance list for the meeting, and a list of any documents considered at the meeting.

Please send me this information by e-mail to [redacted email address], in a machine readable format such as .csv or .xlsx where appropriate.

If you have any queries about this request please contact me on [redacted number].

If you are encountering practical difficulties complying with this request, please contact me so that we can discuss the matter and if necessary I can modify the request."

6. To date, a substantive response has not been issued.

Scope of the case

7. The complainant contacted the Commissioner on 22 November 2021 to complain about the failure by the Environment Agency to respond to his request.
8. The Commissioner has considered whether the Environment Agency complied with its obligations in relation to the time for compliance at section 10 (1) of the FOIA.

Reasons for decision

9. Section 1(1) of the FOIA states 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.

10. Section 10(1) of the FOIA states that a public authority must respond to a request promptly and “not later than the twentieth working day following the date of receipt.”
11. On 30 November 2021, the Commissioner wrote to the Environment Agency, reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days.
12. Despite this intervention the Environment Agency has failed to respond to the complainant.
13. From the evidence provided to the Commissioner in this case, it is clear that the Environment Agency did not deal with the request for information in accordance with the FOIA. The Commissioner finds the Environment Agency has breached section 10(1) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the FOIA.

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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.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

Michael Lea
Team Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF