

## Freedom of Information Act 2000 (Section 50)

### Decision Notice

Date: 29 June 2011

**Public Authority:** The Oil & Pipelines Agency  
**Address:** York House  
23 Kingsway  
London  
WC2B 6UJ

### Summary

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The complainant asked the Oil & Pipelines Agency (the "public authority") to provide information relating to a copy of a Site Safety Report. The public provided some of the Report but withheld the remainder citing the exceptions in sections 12(5)(a) and 13(1) of the Environmental Information Regulations 2004 (the "EIR").

The complainant has only contested the withholding of information in two appendices of the Report which is withheld under exception 12(5)(a). The Commissioner's decision is that the exception is engaged and that the public interest in maintaining the exception outweighs that in disclosure. The complaint is not upheld.

The public authority's handling of the request also resulted in breaches of certain procedural requirements of the Act as identified in this Notice.

### The Commissioner's role

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1. The Environmental Information Regulations (the "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

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2. The document at the centre of this request is a Control of Major Accident Hazards (COMAH) Safety Report written about Redcliffe Bay Petroleum Storage Depot (PSD) ("the Report"). The following are extracts from the Report which have already been disclosed:

### *"1.1 COMAH Regulations*

*The Control of Major Accident Hazard Regulations 1999 (COMAH), amended in 2005, implement the European Communities 'SEVESO II' Directive (Council Directive 96/82/EC). They are designed to reduce the incidence of major industrial accidents and to limit the harm to people and the environment of any that do occur. They apply to sites, which manufacture, process or store hazardous substances and their requirements operate at two levels, dependent on the total quantity of dangerous substances on the site. At the first of these, Site Operators must draw up a document setting out their Major Accident Prevention Policy (MAPP) and demonstrate that they have a Safety Management System in place. At the second more stringent level, Operators are required to submit a written safety report to the Competent Authority, prepare an On-site Emergency Plan and provide certain information to the public.*

*When considering accidents to the environment the most significant is a Major Accident to the Environment (MATTE). In general terms this is an accident that results in one or more of a number of outcomes, such as a catastrophic impact on a Site of Special Scientific Interest (SSSI) ...*

*For the storage of hazardous substances, the Regulations apply to those sites that hold stocks of more than a specified threshold quantity of hazardous substances. The threshold quantities are defined in Parts 2 and 3 of Schedule 1 of the Regulations. They identify "named substances" for which individual threshold quantities are given and "generic substances" of which there are 10 classes. Relevant to Redcliffe Bay Petroleum Storage Depot (PSD) is the flammable group, including kerosenes, for which the threshold quantity is 25,000 tonnes."*

### *"1.3 Redcliffe Bay PSD*

*The Redcliffe Bay PSD was 'in reserve' from the early 1990's and at this stage deemed consent was claimed for the site under the Planning (Control of Major Accident Hazards) Regulations 1999.*

*The Redcliffe Bay PSD was re-commissioned in 2003 to provide additional capacity on the network, as part of a project to allow ship offloading of aviation fuel at the nearby Royal Portbury Dock. The site became COMAH 'top tier' and a Safety Report was submitted to the Competent Authority in June 2003 ... There were extensive site visits carried out by HSE [Health & Safety Executive] and EA followed by a number of further visits in subsequent years. The site was finally brought back into operation in 2005 ....*

*There is a requirement under COMAH for the Safety Report to be reviewed every 5 years and this document is the result of a full review and substantial re-write of the report. It is noted that there have been no incidents involving loss of containment of fuel since the site was brought back into operation.*

*A significant addition to the Safety Report update is a more detailed consideration of the risk of a major fire on site affecting local residents, in particular a fire centred on the pump-house located near the Northern site boundary. This reflects concerns raised by the residents and aims to show that the risk level is very low due to the nature of the materials handled on site and the range of protective measures in place.*

*Based on OPA experience on the whole of the GPSS [Government Pipeline and Storage System], there have been no significant fires involving kerosene on the facilities including storage tanks and pipelines".*

3. Further general background information about COMAH reports can be found online via the following link:

<http://www.hse.gov.uk/comah/report-review.pdf>

4. In a different request made to the public authority the complainant was provided with a copy of a Semi Permanent Circular (SPC) issued by the HSE in April 2007. This SPC was withdrawn in April 2010, when it was due for review, but was still 'active' at the time of the request. The SPC itemised the following types of information that it considered may be appropriate to be withheld under regulation 12(5)(a) of the EIR.
  - Detailed descriptions of the site.
  - Actual volumes of material stored.
  - Detailed information about pipelines.
  - Details of safety measures on site.
  - Staff details and staffing levels.

- Procedures to be followed in the event of an emergency.
- The consequences of scenarios considered in designing Emergency Plans.
- Safety equipment and emergency response equipment.
- Specific security arrangements.

This SPC was relied on by the public authority when dealing with this request.

5. The relevant text of the now withdrawn SPC is contained in an annex to this Notice.

## The request

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6. On 6 June 2008 the complainant made the following information request:

*"Redcliffe Bay PSD Authority to Operate*

*Para 219 of the HSE [Health and Safety Executive] Guide to COMAH [Control of Major Accident Hazards] reads 'Operators should review their safety reports no later than five years after the original submission ..... Provided the entire report is reviewed and the review is adequately documented the five year period will start again'.*

*The five year life of the 2003 Site Safety Report would appear to end in a few days time, on 23 6 08. The Letter of Consent by the CA refers only to this Report, so I deduce that a new CA [Competent Authority] Letter will also be needed after the same date.*

*If a full review of the Safety Report is available, please may I have a copy under the FOI Act and / or EIR para 12.11?*

*If it is not available and if there is no renewal of the Consent Letter, then the Site will have no authority to operate. Please confirm that the Site will cease operations from the above date until such time as the new documents are ready and agreed".*

7. At the time it was requested the Safety Report did not exist and the Commissioner would normally expect a public authority to advise a requester accordingly. However, in this particular case there was

continued contact between the parties whilst the Report was being drafted.

8. On 19 December 2008 a draft version of the Report was completed. This was passed for further approval and, once approved by the Competent Authority on 28 October 2009, the complainant was advised accordingly.
9. There was further contact between the parties.
10. On 22 January 2010 the complainant again wrote to the public authority as follows:

*"It is nearly 19 months since you first told me that I could have a redacted version of the latest SSR..."*

*It is nearly 11 months since you wrote "we are currently engaged in testing the public interest in relation to the information you requested and intend to respond substantively to your request under the EIR by 17<sup>th</sup> April 2009", but you didn't. It is 3 months since the CA issued the relevant Conclusions Letter. Six weeks ago you wrote "We have commenced the Public Interest Test for the 2008 Site Safety Report and will send you a copy once the process has been completed".*

*Please could I have something on when I can expect the promised report?"*

The public authority considered this to be a reiteration of the original request.

11. On 24 February 2010 the public authority sent out its formal response. It disclosed some information and withheld the remainder citing section 24 (national security) of the Act. It did not refer to the EIR nor did it include any public interest test.
12. On 21 March 2010 the complainant requested an internal review.
13. On 22 October 2010 the Ministry of Defence (the "MOD") sent out an internal review on behalf of the public authority. It released further information and advised the complainant that any remaining information was exempt under section 12(5)(a) of the EIR.

## The investigation

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### Scope of the case

14. On 5 November 2010 the complainant contacted the Commissioner to complain about the way his request for information had been handled. The complainant specifically asked the Commissioner to consider the following:
  - the full release of appendices B and C of the Report.
15. The complainant also raised other issues about perceived inadequacies of the Report. However, these concerns are not addressed in this Notice because they do not involve requirements of Part 1 of the Act.
16. During the course of the investigation the public authority indicated that it was happy to release the names of two staff who had been redacted from Appendix C. For simplicity, the Commissioner has provided this information directly to the complainant in a covering letter with this Notice. The Commissioner has therefore removed this element from the scope of this investigation. The Commissioner has considered whether the exception is engaged and where the balance of the public interest lies as at the date of the reiterated request of 22 January 2010.

### Chronology

17. On 26 January 2011 the Commissioner commenced his investigation. He wrote to the complainant who confirmed the scope of this investigation on the same day.
18. On 27 January the Commissioner commenced his enquiries with the public authority.
19. On 8 February 2011 the Commissioner sought further comments from the public authority.
20. On 11 March 2011 the public authority responded. It advised the Commissioner that it did not believe any further disclosure was possible and it stated that:

*"The consensus of opinion within MOD and OPA is that the original redaction of these appendices should stand".*

21. During the course of the investigation the complainant advised the Commissioner that:

*"It is faintly ridiculous that a very few residents here on whom a real risk of incineration is imposed by a government agency without consultation are prevented from understanding these risks because the FOI/ EIR is operated by people who are concerned that the release of data to these few is the same as the release to potential terrorists. I don't believe that it was the intention of the government that people with a 'need-to-know' should be kept in the dark ... Unfortunately your pros and cons will be about releasing the data to the many and not to the few".*

22. In response the Commissioner confirmed that he was unable to make a determination about a limited release for the complainant's eyes only. However, he did at the same time offer to ask the public authority whether a 'personal disclosure' to the complainant only would be desirable, perhaps with some sort of confidentiality clause, which would be outside the terms of the EIR.

23. By way of response the complainant stated:

*"That would be excellent, if you could ask for a whole copy in confidence, outside the FOI. ... Yes , please ask for a private disclosure with confidentiality safeguards".*

24. The Commissioner therefore put these proposals to the public authority.

25. On 28 March 2011 the public authority wrote to the complainant. It offered him sight of the full report, as well as the Appendices, provided he signed a confidentiality clause and did not take notes. Furthermore, it offered him a site tour and sight of other documentation which the complainant has also sought to access.

26. In light of this, the Commissioner invited the complainant to withdraw his complaint as he was in a position to access considerably more information than he could within the scope of this complaint. The complainant declined, stating:

*"If I could have a quiet hour with Apps B and C, making notes but not duplicating the original pages, I could probably manage to do all I need to do, but possibly leading to some new questions to put to the OPA. I could then most probably drop my appeal to the ICO and there would be no need for a formal Notice.*



*If personal disclosure means only a few minutes with the text and no note-taking, as specified by [the OPA], then I don't think I would meet my objectives. I am after factual evidence that the safety report is sub-standard, erroneous in places and misleading over the levels of risk to the public .....*"

27. He further said to the Commissioner that there was no need for him to apprise the public authority of the situation and suggested:

*"If the information I need is not forthcoming, you could issue your Notice a little later ..."*

28. The Commissioner advised the complainant that he was not able to do this. He informed the public authority of the situation.
29. As a result of the complainant not being satisfied with the proposed 'informal resolution' the public authority withdrew its offer pending the outcome of this Decision Notice.

## Analysis

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30. The Commissioner has to decide whether the request should have been dealt with under the Act or the EIR. The public authority considers that the information in question should be withheld under regulation 12(5)(a) of the EIR.

## Substantive Procedural Matters

### Regulation 2

*Is the requested information environmental information?*

31. The EIR defines what constitutes environmental information in Regulation 2(1). A full copy of this section of the legislation and any other section that will be referred to in this Notice can be found in a Legal Annex attached to this Notice.
32. The Commissioner has had sight of the withheld information and considers that all of the information relevant to this request would fall within the definition given at regulation 2(1)(c) of the EIR:  
*"Information on .... 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 designed to protect those elements”.*

33. The Report provides details of potential accidents at the site which could have both on-site and off-site consequences. As quoted in the ‘Background’ information above, such reports are: “... *designed to reduce the incidence of major industrial accidents and to limit the harm to people and the environment of any that do occur*”. The Commissioner therefore considers that the information concerns measures which have the potential to affect the environment and also that seek to protect it; he therefore concludes that the EIR is the correct access regime for this Report.

## **Exception**

### **Regulation 12(5)(a)**

34. Regulation 12(5)(a) allows information to be withheld by a public authority if:

*“disclosure would adversely affect –*

*(a) international relations, defence, national security or public safety”.*

35. The public authority maintains that disclosure would adversely affect ‘national security’; this exception is subject to the public interest, as identified in regulation 12(1)(b). The Commissioner also notes that there is a presumption in favour of disclosure under regulation 12(2).
36. In the case of *Baker vs. Information Commissioner and the Cabinet Office* (EA/2006/0045) the Information Tribunal attempted to define the term ‘national security’. In doing so it referred to a House of Lords decision (*Secretary of State for the Home Department v Rehman [2001] 1 AC 153*) which makes a number of useful observations on the issue:
- ‘national security’ means the ‘security of the United Kingdom and its people’;
  - the interests of national security are not limited to action by an individual which can be said to be ‘targeted at the UK, its system of government of its people’;
  - the protection of democracy and the legal and constitutional systems of the state is part of national security as well as military defence;

- action against a foreign state may be capable indirectly of affecting the security of the United Kingdom;
- reciprocal co-operation between the United Kingdom and other states in combating internal terrorism is capable of promoting the United Kingdom's national security.

37. The Commissioner notes that the public authority itself originally responded citing the Act rather than the EIR. Furthermore, it did not provide any reasons or public interest test to justify its citing of the exemption at section 24(1) (national security) of the Act, merely stating:

*"Redactions have been made under Exemption Section 24 'Information that would harm National Security if released' of the [Act]"*.

38. When it conducted the internal review the MOD corrected the access regime to the EIR and gave the following reasons for engaging this exception:

*"The OPA was anxious to avoid placing any information into the public domain which could lead to a potential hostile organisation or individual identifying plant, equipment, processes or any other information which could enable them to identify vulnerable areas, target opportunities or safety equipment within the site. In redacting the report, the OPA removed information which, whilst on its own would not seem to constitute a threat to security, when considered with other information could lead an informed organisation or individual to identify areas of opportunity as potential targets. Section 11 of HSE's SPC Permissioning Document lists the types of information that it may be appropriate to withhold such as detailed descriptions of the site, the precise locations of storage tanks, safety critical infrastructure and locations associated with the emergency plan for example on site Major Emergency Control Centre; actual volumes of material stored; detailed information about pipelines; details of safety measures on site; staff details and staffing levels; procedures to be followed in an emergency; the consequences of scenarios considered in designing Emergency Plans; safety equipment and emergency response equipment and specific security arrangements".*

39. It went on to conclude that, although it understood releasing the document would increase public confidence in the safety of the site, there was a very strong public interest in withholding information that

could *"assist in the planning of an attack or undermine the effectiveness of a response to an emergency"*.

### ***Adversely affect***

40. In order for regulation 12(5)(a) to apply it is necessary to establish that national security would be adversely affected were the withheld information to be disclosed.
41. It is necessary for the public authority to show that disclosure 'would' have an adverse effect, not that it may or could have an effect. This was considered by the Information Tribunal (the Tribunal) in *Archer v Information Commissioner & Salisbury District Council* (EA/2006/0037). The Tribunal made the following points:
- it is not enough that disclosure should simply affect something - the effect must be *"adverse"*;
  - refusal to disclose is only permitted to the extent of that adverse effect;
  - it is necessary to show that disclosure *"would"* have an adverse effect – not that it could or might have such effect;
  - even if there would be an adverse effect, the information must still be disclosed unless: *"in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information"*;
  - all these issues must be assessed having regard to the overriding presumption in favour of disclosure.
42. The Commissioner is satisfied that disclosing the withheld information at this time would adversely affect the ability of the public authority to securely maintain the Redcliffe Bay PSD. He recognises that the public authority has scrutinised the Report and has already made part of it available in order to inform the public, and that it is only retaining those elements where it has identified particular harm.

### ***Public interest arguments in favour of disclosing the requested information***

43. The Commissioner recognises the general public interest in furthering the understanding of safety issues surrounding petroleum storage. He further recognises the importance of accountability and transparency in this context.
44. The Commissioner also recognises the complainant's genuine concerns in relation to Redcliffe Bay PSD and his desire to fully understand the safety aspects of the site in his belief that they may be inadequate.

45. The public authority has advised the Commissioner that it is:

*"... committed to placing general information about PSDs into the public domain which serves to increase public confidence about the safety of the sites and informs the public about the role of the OPA".*

***Public interest arguments in favour of maintaining the exemption***

46. The public authority has relied on the HSE SPC referred to in the 'Background' section above, details of which are appended to this Notice. Having viewed the relevant withheld information, the Commissioner agrees that it can all be fairly categorised as falling into the areas listed in this document.

47. The public authority has also advised the Commissioner that:

*"The PSDs are a strategic UK defence asset providing aviation fuel to MOD sites. The network of sites and associated pipelines are interconnected with several private networks and was built to supply all the RAF and USAF bases in the country. The pipeline also supplies the UK's civil airports and provides contingency storage capacity.*

*If precise information about equipment and operations on site were to be placed into the public domain, parties with malicious intent could identify the site's vulnerabilities and allow hostile parties to disable critical parts of the site and/or the associated pipeline in multiple, simultaneous attacks. Therefore, to release details of the Major Accident Hazard Review and the Environmental Impact Assessment would jeopardise the overall security of the system and would not be in the public interest".*

***Balance of the public interest arguments***

48. The Commissioner notes that there is a presumption in favour of disclosure under the EIR as contained in regulation 12(2): *"A public authority shall apply a presumption in favour of disclosure"*.
49. The Commissioner acknowledges that in this case there is a genuine public interest in disclosing the requested information. He accepts that individuals' lives may be affected through potential issues with site safety and disclosure of the information would allow greater scrutiny of the public authority's actions. He also considers that the withheld

information may allow them to hold the public authority to account for any perceived shortfalls in its running of the site. Disclosure may also help to inform debate about how petroleum storage should be dealt with in the future and could increase the possibility of public participation in matters that directly affect them.

50. It is noted, however, that some of the main Report has been released and this does therefore enable further public debate. The complainant wishes to have sight of the remaining information from within the appendices in order to make a detailed analysis of the safety of the site. As release of the information would allow the complainant to make a detailed analysis of the site the Commissioner concludes that such information is very likely to be useful were it to fall into the hands of someone with less benign intentions.
51. The Commissioner notes that the complainant himself has recognised that there are genuine concerns around disclosure of the requested information. This has been indicated by the complainant recognising that disclosure should be on a 'need to know' basis and his suggesting that it could require 'confidentiality safeguards'. This indicates to the Commissioner that the complainant acknowledges that there are concerns with 'releasing the data to the many and not to the few'. The Commissioner notes the public authority's cooperative approach towards the complainant in offering him the chance to view the information outside the EIR in an effort to assuage his concerns as well as its offer of further engagement through meeting with him and letting him tour the site; this indicates to the Commissioner that it has recognised the genuine concerns of the complainant as an individual and shown a willingness to engage with him personally. However, the Commissioner can only consider disclosure to the world at large and he therefore affords some weight to the complainant's own acknowledgement that there is some harm within full disclosure.
52. Within the HSE SPC (see annex), specific reference is made to the harm associated with each bullet point (listed earlier in this Notice). For example, providing detailed descriptions of the site could allow terrorists to plan an attack by revealing precise locations of storage tanks, which would normally only be known by parties directly involved with the site. The release of actual volumes of material stored at the site, rather than the maximum allowed under planning regulations, would enable those planning an attack to assess the potential damage which they could cause. Providing information about the construction and flow rates of pipes could also assist an attack, as too could knowledge of staffing levels and patterns.

53. The Commissioner has considered the arguments for and against disclosure. He has determined that in this instance regulation 12(5)(a) is engaged and that the public interest in maintaining the exemption outweighs the public interest in disclosure. Therefore the Commissioner uphold the public authority's application of regulation 12(5)(a).

## **Procedural matters**

### **Regulation 11**

54. Regulation 11 states that a public authority must conduct an internal review within 40 working days of receiving representations from the applicant. In failing to do so the Commissioner considers that the public authority breached regulation 11(4).

### **Regulation 14**

55. At no stage did the public authority provide details of the matters considered in reaching a decision with respect to the public interest under regulation 12(1)(b). Accordingly, the Commissioner finds that the public authority breached regulation 14(3)(b).

## **The Decision**

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56. The Commissioner's decision is that the public authority dealt with the following elements of the request in accordance with the requirements of the EIR:
- it correctly withheld the information under regulation 12(5)(a).
57. However, the Commissioner has also decided that the following elements of the request were not dealt with in accordance with the Act:
- in not providing adequate public interest arguments it breached regulation 14(3)(b);
  - in failing to conduct a timely internal review it breached regulation 11(4).

## **Steps required**

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58. The Commissioner requires no steps to be taken.

## Right of Appeal

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59. 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: 0300 1234504

Fax: 0116 249 4253

Email: [informationtribunal@tribunals.gsi.gov.uk](mailto:informationtribunal@tribunals.gsi.gov.uk).

Website: [www.informationtribunal.gov.uk](http://www.informationtribunal.gov.uk)

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.

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 29<sup>th</sup> day of June 2011**

**Signed .....**

**Lisa Adshead  
Group Manager  
Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF**



## Legal annex

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### **Regulation 2(1)**

In these Regulations –

“the Act” means the Freedom of Information Act 2000(c);

“applicant”, in relation to a request for environmental information, means the person who made the request;

“appropriate record authority”, in relation to a transferred public record, has the same meaning as in section 15(5) of the Act;

“the Commissioner” means the Information Commissioner;

“the Directive” means Council Directive 2003/4/EC(d) on public access to environmental information and repealing Council Directive 90/313/EEC;

“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 –

- (a) 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;
- (b) 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);
- (c) 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;
- (d) reports on the implementation of environmental legislation;
- (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c) ; and
- (f) 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 11 - Representation and reconsideration**

**Regulation 11(1)** Subject to paragraph (2), an applicant may make representations to a public authority in relation to the applicant’s request for environmental information if it appears to the applicant that the authority has failed to comply with a requirement of these Regulations in relation to the request.

**Regulation 11(2)** Representations under paragraph (1) shall be made in writing to the public authority no later than 40 working days after the date on which the applicant believes that the public authority has failed to comply with the requirement.

**Regulation 11(3)** The public authority shall on receipt of the representations and free of charge –

- (a) consider them and any supporting evidence produced by the applicant; and
- (b) decide if it has complied with the requirement.

**Regulation 11(4)** A public authority shall notify the applicant of its decision under paragraph (3) as soon as possible and no later than 40 working days after the receipt of the representations.

**Regulation 12(2)**

A public authority shall apply a presumption in favour of disclosure.

**Regulation 12(5)**

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

- (a) international relations, defence, national security or public safety;
- (b) the course of justice, the ability of a person to receive a fair trial or the ability of a public authority to conduct an inquiry of a criminal or disciplinary nature;
- (c) intellectual property rights;
- (d) the confidentiality of the proceedings of that or any other public authority where such confidentiality is provided by law;
- (e) the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest;
- (f) the interests of the person who provided the information where that person –
  - (i) was not under, and could not have been put under, any legal obligation to supply it to that or any other public authority;
  - (ii) did not supply it in circumstances such that that or any other public authority is entitled apart from these Regulations to disclose it; and
  - (iii) has not consented to its disclosure; or
- (g) the protection of the environment to which the information relates.

**Regulation 14 - Refusal to disclose information**

**Regulation 14(1)**

If a request for environmental information is refused by a public authority under regulations 12(1) or 13(1), the refusal shall be made in writing and comply with the following provisions of this regulation.

**Regulation 14(2)**

The refusal shall be made as soon as possible and no later than 20 working days after the date of receipt of the request.

**Regulation 14(3)**

The refusal shall specify the reasons not to disclose the information requested, including –

- (a) any exception relied on under regulations 12(4), 12(5) or 13; and
- (b) the matters the public authority considered in reaching its decision with respect to the public interest under regulation 12(1)(b) or, where these apply, regulations 13(2)(a)(ii) or 13(3).

**Regulation 14(4)**

If the exception in regulation 12(4)(d) is specified in the refusal, the authority shall also specify, if known to the public authority, the name of any other public authority preparing the information and the estimated time in which the information will be finished or completed.

**Regulation 14(5)**

The refusal shall inform the applicant –

- (c) that he may make representations to the public authority under regulation 11; and
- (d) of the enforcement and appeal provisions of the Act applied by regulation 18.