

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

Date: 13 February 2013

Public Authority: Marine Management Organisation

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

Decision (including any steps ordered)

1. The complainant requested information from the Marine Management Organisation ("MMO") related to the closure of the Western Waters fishing area for scallop fishing for a period in 2011. The MMO disclosed some information but argued that most of the information was exempt under the exceptions contained in regulations 12(4)(e) (internal communications), 12(5)(a) (international relations), 12(5)(e) (confidentiality of commercial information), 12(5)(f) (interests of a person providing information) and 13 (personal data) of the EIR.
2. The Commissioner's decision is that MMO has correctly withheld some of the information under regulation 12(5)(a). The Commissioner has identified some information that is not exempt under the exceptions relied on by the MMO. He has also identified some breaches of the EIR in its handling of the request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
 - The MMO is to disclose to the complainant the information that he has identified as not exempt from disclosure in the detailed annex ("Annex") provided at the end of this notice.
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 3 November 2011 the complainant requested the following information:

"1. Any and all correspondence, emails, notes of meetings, conversation or calls in that relate to

- a. When the MMO became aware there would be a problem with Western Waters Scallops overshoot in 2011.*
- b. What and when the MMO did anything to avert the need for a closure.*
- c. When other EU states were first contacted in respect of swops.*
- d. Representations made to the EU in respect of increasing the UK's allocation for 2011.*
- e. Details and results of exercises conducted by or on behalf of the MMO that identify the cost of any closure to the sector and UK PLC.*

2. Any and all correspondence, emails, notes of meetings, conversation or calls in that relate to

- a. What the MMO has done, if anything to avert the need for closure or restriction of scalloping in Western Waters in 2012.*
- b. Representations made to the EU in respect of increasing the UK's allocation for 2012."*

6. On 29 November 2011 the MMO informed the complainant that, under regulation 7, it would need to extend the time period for a response to 40 working days due to the volume and complexity of the material covered by the request.

7. On 23 December 2011 the MMO contacted the complainant to explain that due to the amount of time involved in identifying and searching for the information falling within the scope of her request, together with the retrieval and preparation of that information, it anticipated that it would

take longer than 40 working days to respond. It believed that, because of the unreasonable cost and diversion of resources required to respond to her request, regulation 12(4)(b) (manifestly unreasonable) applied. However, it offered the option of not applying this exception but, instead, providing the information to her in batches by the end of January 2012.

8. On 28 December 2011 the complainant asked the MMO to carry out an internal review as she was dissatisfied with the length of time that it was taking to provide a response and with its handling of the request.
9. On 28 December 2011 the MMO informed the complainant that it was sorry that she did not feel that its suggestion to deal with the request outside the EIR was justified. It confirmed that it remained committed to providing her with the information that she was seeking and that it would carry out an internal review. It also said that it would try to ensure that it responded within the time frame that it had previously indicated.
10. Between 13–31 January 2012, the MMO released three batches of information to the complainant. On 31 January 2012 the MMO wrote to the complainant to inform her that some information had been withheld and that it did not hold some of the information requested. It provided general headings under which information had been withheld. These headings covered exemptions under FOIA and exceptions under the EIR. The MMO did not provide details of the public interest factors that had been taken into account in determining that the information should not be disclosed
11. The MMO sent the outcome of its internal review on 22 February 2012. It indicated that it was of the view that regulation 12(4)(b) was applicable to the request because of the unreasonable cost involved in responding, given the large amount of information falling within the scope of the request. However, it clarified that it had not formally invoked regulation 12(4)(b) in order to try to assist the complainant. It acknowledged that it had not provided a response within the required timeframe.
12. The MMO then went on to explain that information had been withheld under the exceptions contained in regulations 12(4)(e), 12(5)(a), 12(5)(e), 12(5)(f) and 13. It also provided details of the public interest factors that had been taken into account in carrying out the public interest test in relation to the application of the exceptions.

Scope of the case

13. The complainant contacted the Commissioner on 16 May 2011 to complain about the way her request for information had been handled, including the MMO's application of exceptions to the requested information.
14. The Commissioner considered whether the MMO had breached any of the procedural provisions of the EIR in its handling of the request and whether it was entitled to rely on the exceptions claimed to withhold information.
15. During the course of the Commissioner's investigation, the complainant confirmed that she did not object to the MMO's redaction of the names, contact details and other details that would allow individuals to be identified in relation to any information that the Commissioner might order to be disclosed. The Commissioner has not therefore considered the MMO's application of regulation 13 (personal data) to any documents that he has determined should be disclosed.

Reasons for decision

Application of exceptions

16. The MMO applied the exceptions contained in regulations 12(4)(e) (internal communications), 12(5)(a) (international relations), 12(5)(e) (confidentiality of commercial information) and 12(5)(f) (interests of a person providing information) in various combinations to different parts of the withheld information. The Commissioner initially considered the application of regulation 12(5)(a) by the MMO as this exception had been applied to the largest amount of the withheld information. He then considered the application of the exceptions in turn to any information that was not exempt under regulation 12(5)(a).

(i) Regulation 12(5)(a) – International relations

Adverse affect

17. The Commissioner notes that for an exception under regulation 12(5) to be applicable a public authority must establish an "adverse affect" from disclosure on those interests specified in the exception. It is not sufficient to show that the information is related to those interests. It is not sufficient that disclosure would simply have an effect, the effect must be "adverse".

18. It is also necessary to show that disclosure “would” have an adverse affect, not that it could or might have an adverse affect. The Commissioner has interpreted this to mean that, although it was not necessary for the public authority to prove that prejudice would occur beyond any doubt whatsoever, prejudice must be at least more probable than not.
19. Even if disclosure would have an adverse affect, under the provisions of the EIR, the information must 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.
20. Regulation 12(2) explains that the public authority must apply a presumption of disclosure when considering the information. This means that in the event that the weight of public interest in favour of maintaining the exception is balanced with the public interest in disclosure, the information should be disclosed.

Engagement of the exception

21. Regulation 12(5)(a) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect

“international relations, defence, national security or public safety”

22. The MMO explained that each year the UK is allocated amounts of quota (the weight of fish which is allowed to be landed) for certain species of sea fish and amounts of effort (a quantity representing the total amount of engine power, expressed in days, which fishing vessels can employ to fish for a particular species) for certain other species, including scallops, for use by the UK fishing industry.
23. Where the fishing industry requires further amounts of quota or effort, the MMO has the important function of obtaining quota or effort from other member states by swapping other quota or effort. This process involves complex and sensitive negotiations in order to secure the quota or effort at the best value for the fishing industry. The MMO argued that it was vital to maintain trusted relationships with the other member states with which it dealt and also to closely guard the UK’s negotiating position in order to secure the best value swap deals for the UK’s fishing fleets. It was of the view that the disclosure of the information that had been withheld under this exception would have an adverse effect on these important issues and this would be detrimental to the interests of the UK.

24. Guidance issued by the Commissioner in relation to regulation 12(5)(a) considers the possible range of situations to which the exception may apply. It states that

"International relations are not simply about fostering better relations with another state or international body. It can also describe the comparative position of one country to another. In other words, weakening the UK's position in respect of another country is also an adverse effect on our relationship with that country." (para 19)

25. The Commissioner notes that the information that was requested relates to scallop fishing in the area of the UK coast designated as the Western Waters fishing area. During the course of 2011 it became apparent that the UK was likely to exceed its EU fishing quota in terms of scallops for that area. As a result the MMO sought to swap some of the UK's quotas for other fish with EU countries in order to increase its quota for scallops in the Western Waters area.
26. In the latter part of 2011, in order to avoid using the UK's entire quota before the end of the year, the MMO decided to close the Western Waters area for scallop fishing for vessels of 15 metres and above. This took effect on 2 October and continued until 4 November 2011, when the area was reopened for scallop fishing. During this period the MMO continued to try to negotiate swaps with other EU countries in order to increase the UK's quota for scallop fishing in the Western Waters for 2011. It appears that these negotiations continued until the end of the year.
27. The Commissioner has carefully examined the information to which the MMO has applied regulation 12(5)(a). A significant amount of this information is email exchanges related to negotiations over the swapping of quotas with other countries. It includes emails detailing the negotiations that took place between the MMO and representatives of other EU member states. These provide very detailed information about the negotiations in terms of the proposals put forward, counter proposals and what concessions were given by the parties.
28. The withheld information also includes discussions which took place internally between staff at the MMO and between staff at the MMO and government officials about negotiations with other member states. These relate to the strategies to be adopted in negotiations with other countries, the merits of particular proposals and alternative proposals that might be put forward. There are also similar discussions with members of the UK fishing industry, who, in addition, discuss contributions they might be able to make in terms of quota swaps.

29. The Commissioner notes that at the time that the request was made, in early November 2011, the MMO was still trying to negotiate swaps of quota with other member states. He is of the view that the disclosure of the types of detailed information that he has described above would have potentially weakened the MMO's position in relation to any on-going or future negotiations for quota swaps for 2011 as it would have given other member states with whom it might be negotiating, or it might wish to negotiate, some insight into its negotiating positions and strategies. He is therefore satisfied that it is more probable than not that the disclosure of this information would have placed the MMO at a disadvantage in on-going or future negotiations on behalf of the UK with other member states and consequently that there would have been an adverse effect on international relations. In relation to this information, the Commissioner has gone on, below, to consider the public interest test.
30. However, the Commissioner has identified some information to which this exception has been applied that does not concern detailed negotiations over the swapping of quotas with other member states. It includes general, rather than detailed, discussions about fishing quota swaps, discussions about the management of the UK scallop fishing industry, discussions about the closure and reopening of the Western Waters area for scallop fishing, the possibility of obtaining an increase from the EU in the UK's scallop quota and arranging a meeting with fishing industry representatives.
31. After considering the nature of this information, the Commissioner is not satisfied that its disclosure would have an adverse effect on international relations. He has therefore determined that it should be disclosed where no other exception has been applied. The information to be disclosed is identified in the Annex at the end of this notice. Where other exceptions have been applied to the withheld information, he has considered whether the information is exempt under those exceptions.

Public interest test

32. Under regulation 12(1)(b) information can only be withheld if an exception applies and in all of the circumstances of the case the public interest in maintaining the exception outweighs the public interest in disclosing the information. Regulation 12(2) provides that a public authority must apply a presumption in favour of disclosure when considering the information. This means that in the event that the weight of public interest is balanced, the information should be disclosed.
33. In assessing the public interest, the Commissioner considered the circumstances which existed at the time of the request.

Public interest arguments in favour of disclosing the information

34. The Commissioner recognises that there a general public interest in accountability and transparency in relation to the activities of public authorities. This is particularly important in this case as the MMO has a crucially important role to play in supporting and protecting the UK's fishing industry.
35. The information which the Commissioner has determined engages the exception in regulation 12(5)(a) concerns the MMO's negotiations over swapping fishing quotas with other member states. This information also relates to the decision by the MMO to close the Western Waters area for scallop fishing for a month in order to avoid the UK's quota being entirely used before the end of the year. The consequences of this decision were obviously detrimental to the parts of the UK's fishing industry which were involved in scallop fishing in the area. There is therefore clearly a public interest in the disclosure of this information in order to shed light on how effectively the MMO carried out these important negotiations and whether more could have been done to avoid, or reduce the length of, the closure that took place.
36. The disclosure of the information would also provide the public with a greater insight and understanding of how the MMO goes about the task of negotiating with other member states.

Public interest arguments in favour of maintaining the exception

37. The Commissioner has explained above why accepts that the disclosure of detailed information related to the negotiations that the MMO was undertaking would have placed it at a disadvantage in relation to other member states. He has taken particular account of the fact that negotiations were still in progress with other member states at the time of the request. There is clearly a very significant public interest not disclosing information which may have affected the MMO's ability to secure the most beneficial agreements that it could on behalf of UK and its fishing industry.
38. After weighing the public interest arguments, the Commissioner has determined that the public interest factors in protecting the UK's interests by withholding the information related to the detailed negotiations with other member states outweigh the public interest factors in favour of disclosure. Consequently, he has decided that the MMO correctly applied regulation 12(5)(a) to the information that he has identified in the Annex at the end of this notice.

(ii) Regulation 12(4)(e) – Internal communications

39. The Commissioner considered whether any of the information which was not exempt under regulation 12(5)(a), and to which regulation 12(4)(e) had been applied, was exempt under that exception.
40. Regulation 12(4)(e) provides that a public authority may refuse to disclose information to the extent that the request involves the disclosure of internal communications.
41. The MMO explained that the information that it believed fell within regulation 12(4)(e) was contained in communications identified as internal to the MMO and other government departments and agencies. None of the people included in the distribution of these communications were external to the MMO or other government departments and agencies.
42. In the Commissioner's view information communicated within a public authority will constitute an internal communication for the purpose of regulation 12(4)(e). Internal communication will also include communications between central government departments and between executive agencies and central government departments. However, it will not include communications between government departments and other public authorities. The Commissioner notes that the MMO is not part of a government department or agency for the purposes of the EIR but is a separate public authority.
43. The Commissioner has also taken note of the recent decision of the First-Tier Tribunal in *Defra v The Information Commissioner and Portmann (EA/2012/0105)* which considered the question of whether communications between Defra and the MMO constituted internal communications for the purposes of regulation 12(4)(e). Its decision was that such communications were not internal communications under regulation 12(4)(e). As a consequence, the Commissioner is of the view that regulation 12(4)(e) does not apply to any communications between the MMO and government departments or agencies.

Public interest test

Public interest arguments in favour of disclosing the information

44. The Commissioner notes that the information which falls to be considered under this exception covers a range of issues. It includes general, rather than detailed, discussions about fishing quota swaps, discussions about the management of the UK scallop fishing industry, discussions about the closure and reopening of the Western Waters area

for scallop fishing, the possibility of obtaining an increase from the EU in the UK's scallop quota and arranging a meeting with fishing industry representatives.

45. The Commissioner recognises that there is a general public interest in accountability and transparency in relation to the activities of public authorities. This is particularly relevant where a public body has a crucially important role in the regulation of a significant industry within the UK, in this case the MMO's regulation of the fishing industry.
46. The disclosure of the withheld information would provide the public with some insight in the MMO's management of the fishing industry in general and, in particular, how it manages the scallop fishing industry. This is of particular significance as the request was made shortly after the MMO had taken the decision to close the Western Waters area for scallop fishing for most of October 2011 which clearly would have had an adverse impact on the incomes of a considerable number of people involved in the industry.

Public interest arguments in favour of maintaining the exception

47. The MMO argued that the information in question constituted discussions about issues concerning the potential management options for the Western Waters scallop effort allocation from the EU Commission and as such did not represent a settled view or final decision. Taking account of the need for protecting the space for officials to discuss issues relating to the impact of any decisions and the timing of the request, the MMO believed that disclosure to the world at large would have damaged relationships key to any on-going swap negotiations and potential management options being considered. It considered that this was a period during which the MMO and other government departments were entitled to some space to consider an agreed approach.
48. The MMO further argued that to release any of the information would have undermined the effectiveness of the current method of scallop effort management as well as any other future alternative options. Its release would also have detrimentally affected the ability of the MMO to freely and frankly discuss different management options for quota and effort management internally at a preliminary stage. This in turn would have prevented adequate and appropriate on-going management of UK fishing resources to the detriment of the fishing industry as a whole.
49. To the extent that any of the information is discussions about quota swaps, as the Commissioner has noted, these discussions are of a general nature rather than discussions about detailed negotiations. As such, the Commissioner is not convinced, after reviewing this

information, that its disclosure would be likely to have any detrimental effect.

50. In so far as the information concerns discussion about the closure of the Western Waters area for scallop fishing, the Commissioner notes that this decision had already been taken by the time of the request and, furthermore, at that point, the area was just being reopened for fishing. He therefore is of the view that the disclosure of the information relating to the closure would not be likely to have any harmful effect in light of the position at the time that the request was made.
51. In relation to the other information that the Commissioner considered under this exception, after reviewing the content of it, he is not persuaded that its disclosure would be likely to have the harmful impact suggested by the MMO.
52. After weighing the public interest arguments, the Commissioner has determined that the public interest factors in favour of withholding the information to which regulation 12(4)(e) has been applied do not outweigh the public interest factors in favour of disclosure. The Commissioner has therefore decided that, to the extent that the information to which regulation 12(4)(e) has been applied is not exempt under regulation 12(5)(a), it should be disclosed. The information to be disclosed is identified in the Annex at the end of this notice.

(iii) Regulation 12(5)(e) – Commercial confidentiality

53. The Commissioner considered whether any of the information to which regulation 12(5)(e) had been applied, and which was not exempt under regulation 12(5)(a), was exempt under that exception.
54. Regulation 12(5)(e) provides that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.
55. Regulation 12(5)(e) allows commercial or economic information which meets the criteria for either a statutory or common law duty of confidentiality to remain confidential if that duty is owed in order to protect the legitimate economic interests of any party.
56. In order for regulation 12(5)(e) to apply, a public authority needs to establish that:
 - (i) the information does not relate to emissions;

- (ii) the information is commercial or industrial in nature;
- (iii) it is confidential under either the common law of confidence, contract or a statutory bar;
- (iv) the confidentiality is protecting a legitimate economic interest;
- (v) the confidentiality will be adversely affected by disclosure; and
- (vi) the public interest in maintaining the exception outweighs the public interest in disclosing the information.

57. The MMO provided the Commissioner with an explanation as to why it believed that these criteria were satisfied in relation to the information to which it had applied this exception.
58. It was of the view that the information was commercial or industrial in nature as it included detailed information on levels and amounts of quota held by producer organisations within the UK. This clearly had a commercial value. It argued that a duty of confidentiality existed between it and the producer organisations as to this quota and effort information. The information was held by the MMO in order to check national compliance with the quota and effort allocation from the EU Commission. Furthermore the information was given on the basis that it was not made public in order to protect the commercial interests of the producer organisations and the negotiating positions of both the individual producer organisations and the UK in international quota/effort swap deals.
59. The MMO went on to explain that, in addition to the swaps deals which were negotiated between the UK and other member states, producer organisations often arranged and undertook swap deals for quota with other producer organisations. There was clear economic interest in information relating to the amounts of quota that each producer organisation held on behalf of its members which could have a direct effect on the negotiating position of a particular producer organisation. Therefore this information was required to remain confidential.
60. The MMO argued that if this quota information relating to the producer organisations were disclosed, it would have been contrary to the economic interests of the producer organisations and its members as it would have undermined their ability to negotiate good swap deals in future and would have significantly damaged their economic interests.

61. The Commissioner has determined that some of the information to which this exception has been applied is exempt from disclosure under regulation 12(5)(a), specifically that information that related to on-going negotiations over quota swaps. The Commissioner has carefully reviewed the remainder of the information to which regulation 12(5)(a) does not apply. He notes that it covers a range of different issues. It includes general, rather than detailed, discussions about fishing quota swaps, discussions about the management of the UK scallop fishing industry, discussions about the closure and reopening of the Western Waters area for scallop fishing, the possibility of obtaining an increase from the EU in the UK's scallop quota and arranging a meeting with fishing industry representatives. Some of the emails to which the exception has been applied are internal discussions between staff at the MMO and also discussions with officials from government departments or agencies.
62. After disregarding the information which is exempt under regulation 12(5)(a), the Commissioner is not convinced that each of the criteria set out in (iii)-(vi) above are satisfied in relation to each of the emails that remain, given the nature of those emails. He has therefore determined that in relation to the information to which this exception has been applied, to the extent that the information is not exempt under regulation 12(5)(a), the exception is not engaged and it should be disclosed. The information to be disclosed is identified in the Annex at the end of this notice.

(iv) Regulation 12(5)(f) – Interests of a person providing information

63. The Commissioner considered whether any of the information to which regulation 12(5)(f) had been applied, and which was not exempt under regulation 12(5)(a), was exempt under that exception.
64. Regulation 12(5)(f) provides an exception where disclosure would adversely affect:

"(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;"

65. In the Commissioner's view the purpose of this exception is to protect the voluntary supply to public authorities of information that might not otherwise be made available. In such circumstances a public authority may refuse disclosure when it would adversely affect the interests of the information provider. The wording of the exception makes it clear that the adverse effect has to be to the person or organisation providing or organisation providing the information rather than to the public authority that holds the information.
66. The MMO explained that a significant proportion of the information to which it had applied this exception related to quota stock information provided by individual producer organisations as part of the negotiation process for international quota/effort swaps. The individuals concerned had not consented to disclosure or be under any reasonable expectation that the information provided would be disclosed to members of the public. This was particularly the case with the quota stock level information provided by the producer organisations, which was provided on a confidential basis in order that confidential commercial information was not released into the public domain.
67. The Commissioner notes that the information to which this exception has been applied is mostly the same information to which regulation 12(5)(e) was applied. After reviewing the relevant information to which this exception had been applied, the Commissioner believes that any sensitive information relating to negotiations over quota swaps has exempted from disclosure under regulation 12(5)(a). He is not satisfied that all of the remaining information to which the exception has been applied is information provided by a third party. He is also not satisfied, where it has been provided by a third party, that, given the nature of the information in question, disclosure would have an adverse effect on the interests of the persons providing that information. This is particularly the case in light of the complainant's agreement to the redaction of the names, contact details and other details that would allow individuals to be identified in relation to any information that is to be disclosed.
68. The Commissioner has therefore determined that in relation to the information to which this exception has been applied, to the extent that the information is not exempt under regulation 12(5)(a), the exception is not engaged and it should be disclosed. The information to be disclosed is identified in the Annex at the end of this notice.

Procedural aspects of the handling of the request

69. Under regulation 7 a public authority can extend the time period for responding to a request from 20 working days after the date of receipt of the request to 40 working days. This is the case if it reasonably

believes that the complexity and volume of the information requested means that it is impracticable either to comply with the request within the earlier period or to make a decision to refuse to do so.

70. The MMO extended the time period for providing a response to the complainant but did not issue a refusal notice within the required 40 working days. It therefore breached regulation 7(1).

71. In addition, regulation 14(3) provides that:

"(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)."

72. In its refusal notice the MMO did not make clear which exceptions it was relying on to withhold information and therefore breached regulation 14(3)(a). It also did not specify the matters it had considered in reaching its decision in relation to the public interest test and so breached regulation 14(3)(b).

Other matters

73. The Commissioner notes that during the course of dealing with the complainant's request, the MMO suggested to her that it should be dealt with outside the access regime provided by the EIR. It appears that this was done because the MMO perceived that the exception contained in regulation 12(4)(a) (manifestly unreasonable) may have been applicable because of what it believed to be the unreasonable cost and diversion of resources required to respond to the request.

74. This is not something that the Commissioner would expect to occur again. He understands that there can be problems for public authorities in dealing with requests for large amounts of information, particularly where this has significant resource implications. However, the information access regimes have been introduced with appropriate provisions to address these issues. He expects public authorities to use those provisions where it believes that responding to a request has serious cost implications rather than seeking to deal with a request outside the relevant statutory scheme.

Right of appeal

75. 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

76. 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.
77. 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

Rachael Cragg
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex

Details of the Commissioner's decision as to which emails (including attachments) are to be disclosed and which are to be withheld (up to and including 3 November 2011) in relation to each of the bundles of information provided to him by the MMO in July 2012

Bundle 1 - Internal communications (reg 12(4)(e)) and international relations (reg 12(5)(a))

The following emails are exempt under regulation 12(5)(a):

- (i) all of the emails sent in October and November 2011; and
- (ii) the emails sent at the following dates and times:

- 25 August 2011 – 18:02
- 5 September 2011 – 11:26, 11:32, 12:31 and 12:41
- 13 September 2011 – 11:04 and 13:44
- 16 September 2011 – 15:56
- 20 September 2011 – 09:29, 10:44, 12:45 and 13:00

The emails in Bundle 1 that are not exempt under regulation 12(5)(a) are also not exempt under any other exception and should be disclosed.

Bundle 2 – Internal communications (reg 12(4)(e)), international relations (reg 12(5)(a)), confidentiality of commercial information (reg 12(5)(e)) and interests of person providing information (reg 12(5)(f))

The following emails are exempt under regulation 12(5)(a):

All of the emails sent in October 2011 except emails sent at the following dates and times:

- 3 October 2011 – 17:09
- 4 October 2011 – 08:52, 09:18
- 14 October 2011 – 12:44
- 20 October 2011 – 09:15, 09:57

The emails in Bundle 2 that are not exempt under regulation 12(5)(a) are also not exempt under any other exception and should be disclosed.

Bundle 3 - Internal communications (reg 12(4)(e)) and international relations (reg 12(5)(a))

All of the emails sent in 2011 are exempt regulation 12(5)(a) except the emails sent at the following dates and times:

3 November 2011 – 09:16, 15:04, 15:14
2 November 2011 – 10:53, 11:01, 11:02, 17:08, 17:14, 17:15, 19:08
1 November 2011 – 10:55, 12:44, 13:47, 19:36
31 October 2011 – 08:43, 08:58, 09:39, 11:41, 12:16, 12:32, 12:56, 13:16, 13:22, 14:49
28 October 2011 – 17:39
27 October 2011 – 10:23, 13:37
26 October 2011 – 16:23, 17:10, 17:11
25 October 2011 – 07:56, 15:12, 14:29, 14:39, 16:32, 16:40
24 October 2011 – 13:36, 16:13, 21:30
21 October 2011 – 09:02
10 October 2011 – 16:07, 16:09, 20:06
6 October 2011 – 10:50, 11:07, 11:09
5 October 2011 – 11:39, 12:23, 16:22
4 October 2011 – 15:26, 15:50
3 October 2011 – 12:30
30 September 2011 – 09:17, 09:18, 09:42, 11:15, 11:16, 11:17, 11:28, 11:29, 11:30, 11:32, 11:52, 12:32, 13:05, 13:17, 14:10, 17:20, 18:58, 20:43
29 September 2011 – 09:51, 10:48, 11:14, 11:30, 11:35, 11:41, 11:52, 11:56, 12:06, 12:19, 12:31, 12:32, 12:38, 14:04, 14:05, 16:03, 16:37, 14:58, 15:00, 16:03, 16:37, 16:04, 17:58, 18:45, 19:13
28 September 2011 – 10:16, 10:45, 10:51, 11:41, 11:57, 12:20, 13:57, 14:02, 14:20, 14:08, 14:30, 14:35, 14:47, 14:56, 14:58, 15:00, 15:01, 15:09, 15:18, 15:55, 15:21, 22:16, 22:51
27 September 2011 – 11:57, 12:41, 12:46, 12:57, 13:08, 13:41, 14:22, 14:41, 14:44, 14:47, 14:55, 15:01, 15:55, 18:27
26 September 2011 – 08:23, 11:02, 11:17, 11:27, 12:43:33, 12:43:52, 12:44, 14:33, 16:20, 17:10, 17:58, 18:07
25 September 2011 – 19:35
23 September 2011 – 06:28, 09:16, 09:23, 09:38, 10:24, 10:42, 11:12, 11:15, 11:33, 12:05, 12:45, 12:52, 13:10, 13:18, 14:04, 14:13, 15:06, 15:50, 15:52, 15:53, 16:03, 16:09, 16:20, 16:22, 16:28, 16:34, 17:58
22 September 2011 – 11:10, 11:14, 11:24, 13:36, 16:33, 16:50
21 September 2011 – 12:33, 12:41, 12:50, 12:58, 13:00, 13:07, 13:15, 13:18, 14:28, 15:26
20 September 2011 – 11:01, 11:08, 11:38, 11:46, 12:39, 12:42, 12:49, 12:50, 13:03, 13:25, 13:41, 13:43, 13:53
19 September 2011 – 11:47
16 September 2011 – 11:12, 13:48, 14:21, 15:02, 15:45, 16:09

15 September 2011 – 13:21
14 September 2011 – 10:53, 11:09
13 September 2011 – 08:54, 09:12 09:56, 10:16, 10:07, 10:09,
10:18, 11:25, 12:09, 15:45, 16:09
12 September 2011 – 09:01, 14:31, 14:35, 15:21, 15:44
9 September 2011 – 12:54, 13:08, 13:24, 14:44, 14:56, 15:05,
16:11, 16:18, 16:19, 16:27, 16:35, 16:49, 17:10, 17:40
7 September 2011 – 15:54, 22:47
6 September 2011 – 09:41, 10:37, 11:13
5 September 2011 – 09:24, 09:35, 09:38, 09:51, 10:01, 11:05,
12:05, 12:41, 13:55, 13:56, 14:06, 16:00, 16:21, 16:23
2 September 2011 – 08:42, 09:32, 11:57, 12:19, 12:34, 12:44,
13:18, 13:23, 13:50, 14:37, 15:09, 15:10, 15:19, 15:37, 15:57,
17:41
1 September 2011 – 10:14, 11:26, 12:24, 17:04
31 August 2011 – 18:35
23 August 2011 – 10:55
30 June 2011 – 12:05, 15:55
22 June 2011 – 11:57
21 June 2011 – 08:52
12 June 2011 – 23:08

The emails in Bundle 3 that are not exempt under regulation 12(5)(a) are also not exempt under any other exception and should be disclosed.

Bundle 4 - International relations (reg 12(5)(a)), confidentiality of commercial information (reg 12(5)(e)) and interests of person providing information (reg 12(5)(f))

The following emails are exempt under regulation 12(5)(a):

All of the emails sent in October and November 2011.

The emails in Bundle 4 that are not exempt under regulation 12(5)(a) are also not exempt under any other exception and should be disclosed.

Bundle 5 - International relations (reg 12(5)(a))

All of the emails in Bundle 5 are exempt under regulation 12(5)(a).

Bundle 6 - International relations (reg 12(5)(a)), confidentiality of commercial information (reg 12(5)(e)) and interests of person providing information (reg 12(5)(f))

All of the emails in Bundle 6 are exempt under regulation 12(5)(a).

Bundle 7 - International relations (reg 12(5)(a)) and confidentiality of commercial information (reg 12(5)(e))

There is one email in Bundle 7 which is exempt under regulation 12(5)(a).

Bundle 8 - International relations (reg 12(5)(a)) and interests of person providing information (reg 12(5)(f))

The following emails are exempt under regulation 12(5)(a):

All of the emails sent in October and November 2011.

The emails in Bundle 8 that are not exempt under regulation 12(5)(a) are also not exempt under any other exception and should be disclosed.