

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

Date: 8 July 2020

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

Decision (including any steps ordered)

1. The complainant has requested information relating to attempts by the Prince of Wales to represent the Duke of Norfolk or to seek assistance on behalf of the Duke, his family, his estates, his tenants, his businesses and his land holdings. The Environment Agency confirmed that it did not hold the requested information under regulation 12(4)(a) EIR.
2. The Commissioner considers that on the balance of probabilities, there is no recorded information held by the Environment Agency under regulation 12(4)(a) EIR falling within the scope of the request.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 3 December 2019 the complainant requested the following information:

“My request is a renewed attempt to obtain correspondence and communications held by the Environment Agency which in anyway relates to attempts by The Prince of Wales to represent the Duke of Norfolk or to seek assistance on behalf of the Duke, his family, his estates, his tenants, his businesses and his land holdings...Please note

that I am interested in all occasions since 13 January 2013 when the Prince has written to either The Chief Executive or The Chairman of the Environment Agency about the Duke of Norfolk, his family, his estate and his holdings. Some of this correspondence will pre date the material already released to me and some of it will have been generated since.”

5. On 10 January 2020 the Environment Agency responded, it confirmed it did not hold the requested information under regulation 12(4)(a) EIR.
6. The complainant requested an internal review on 14 January 2020. The Environment Agency sent the outcome of its internal review on 6 March 2020. It upheld its original position.

Scope of the case

7. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
8. The Commissioner has considered whether any recorded information is held by the Environment Agency under regulation 12(4)(a) EIR relevant to the scope of the request other than that which has already been disclosed.

Reasons for decision

9. Regulation 12(4) EIR states that, “For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—
(a) it does not hold that information when an applicant’s request is received;”
10. The Environment Agency explained that the original request, and subsequent request for internal review, were both received into its National Customer Contact Centre (NCCC). As the request related to correspondence with the Environment Agency’s Chair and Chief Executive, the response to each was then commissioned via its Executive Correspondence Unit (ECU), who are responsible for handling all correspondence with the Chair and Chief Executive.
11. Whilst the ECU conducted their own searches of databases, and records, they also commissioned further searches through the private offices for the Chair and Chief Executive. These offices, in turn checked their records (which included electronic files, and email accounts), and checked directly with the Chair and Chief Executive.

12. The ECU and NCCC have use of an electronic national tracker, which is used for the logging and tracking of all correspondence (that which is received electronically, but also for post), general enquiries and FOI/EIR requests. The system can be interrogated in a number of ways to check for records, including by date, sender, intended recipient, and key words.
13. Private offices searched electronic files, and email accounts using key search terms. All involved have confirmed that they hold no paper records, so all searches conducted were done electronically.
14. For searches of the Environment Agency's national tracker, electronic files and email accounts the ECU and private offices have confirmed that they applied the following search terms:
 - Prince of Wales, PoW, Prince Charles
 - Duchess of Cornwall
 - Clarence House
 - Duke of Norfolk
 - Chief Executive
 - Chair
 - James Bevan
 - Emma Howard Boyd
 - Arundel
 - Sussex
 - His Royal Highness
15. The Environment Agency confirmed that there were no positive returns while conducting the searches.
16. All offices have also confirmed that no information is held locally on computers, and all searches were conducted on networked computers.
17. The vast majority of correspondence the Environment Agency receives is now in electronic format, and is logged on its national tracker at the point of receipt. Any post received for the Chair and Chief Executive would, however, also have been logged on the national tracker, and scanned so that an electronic copy is held. Manual copies are not retained.
18. The Environment Agency confirmed that it has no record, or anecdotal evidence to suggest that any record, which would have fallen within the scope of this request, has ever existed. Conversations with the Chair and Chief Executive have confirmed this. They have no recollection of any such correspondence.

19. If information did exist that was within the scope of this request, and it was subsequently destroyed (in line with the Environment Agency's retention schedule), it would not hold a record of that information. However, it does not believe this was the case in this instance, as it does not believe any such information was ever held.
20. The Environment Agency's records management policy/retention schedule require it to review direct correspondence with the Chief Executive after 3 years. It applies the same principles to direct correspondence with the Chair.
21. If, at the point of review, there is no reason to retain the correspondence then it would be deleted. Reasons for retention relate to matters of public record, or ongoing matters where there may still be a 'live' conversation. Information requested as part of this request would not constitute a matter of public record, and are not the subject of any 'live' discussions or known conversations. As such, there is no reason that the Environment Agency would have retained it, if it had existed.
22. The Environment Agency is not aware of any statutory reason why it would be required to retain the sort of information forming the subject of this request.
23. During its searches, and conversations with the Chair, Chief Executive, their offices, and its ECU, the Environment Agency did not find any information that met the search terms of the request, or was similar in any way to the requested information.
24. Based upon the Environment Agency's submissions that the searches it has carried out have not located any information falling within the scope of the request, on the balance of probabilities, recorded information falling within the scope of this request is not held under regulation 12(4)(a) EIR.

Right of appeal

25. 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: 0870 739 5836

Email: grc@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

26. 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.
27. 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.....

Gemma Garvey
Senior Case Officer

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SK9 5AF