

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 16 May 2023

Public Authority: The Department for Infrastructure
Address: Clarence Court
10-18 Adelaide Street
Belfast
BT2 8GB

Decision (including any steps ordered)

1. The complainant has requested information from the Department for Infrastructure (DfI) relating to creation and disclosure of reports by the engineering section of the Rivers Agency.
2. The Commissioner's decision is that on the balance of probabilities, the DfI does not hold further information within the scope of the request.
3. The Commissioner does not require the DfI to take any steps.

Request and response

4. On 27 September 2022, the complainant made the following information request to the DfI:

"I would like to request under the Freedom of Information Act, <https://www.gov.uk/make-a-freedom-of-inf...>, the rules, guidelines, procedures and policies related to submitting and releasing an official report from your engineering section of the River Agency.

What I'm looking for is to understand what is the process for approving and releasing the report and ensuring that the data inside this official report has subsequent evidence to support all of the information in the report.”

5. The DfI responded on 11 October 2022 and provided the complainant with information within the scope of the request.
6. On 25 October 2022, the complainant requested an internal review. The DfI provided the outcome of its internal review on 30 November 2022. It stated that it had provided the complainant with all the information held within the scope of the request.
7. The DfI provided the complainant with a further response to the request on 25 April 2023. It provided the complainant with further information within the scope of the request.

Reasons for decision

8. This reasoning covers whether the DfI is correct when it says that it has disclosed all the information it holds within the scope of the request.
9. The position of the DfI is that it has provided the complainant with all the information it holds within the scope of the request. In its submissions to the Commissioner, the DfI explained that following a report of flooding at the complainant's property, an investigation was carried out by an official from the DfI and a report, recording the findings of that investigation, was produced.
10. The DfI explained that it considers there to be two parts to the request, the first being for the rules, guidelines, procedures and policies relating to submitting the report about flooding at the complainant's property. It considers the second part of the request to be for the rules, guidelines, procedures and policies relating to the disclosure of the report about the flooding at the complainant's property.
11. The DfI explained that on 11 October 2022, in response to part 1 of the request, it provided the complainant with a technical guidance note. The DfI considers this document to fully and completely answer part 1 of the request. Furthermore, the DfI explained that when searching for information within the scope of part 1 of the request, it consulted the relevant business area which confirmed that the technical guidance note disclosed on 11 October 2022, is the only document held by the DfI that falls within the scope of part 1 of the request.

12. The DfI considers that it does not hold information within the scope of part 2 of the request as a document relating to the disclosure of the report about flooding at the complainant's property has never been produced. It explained that such a report would never be routinely published as it is of limited interest to the wider public. The DfI stated that it has consulted the relevant business area and conducted a search of the electronic folder containing information about the investigation into flooding at the complainant's property. However no information within the scope of part 2 of the request was located.
13. The Commissioner considers that the DfI has misinterpreted the request. He interprets the request as being for rules, guidelines, procedures and policies relating to submitting and releasing any report by the engineering department of the DfI rather than being for the rules, guidelines, procedures and policies relating to submitting and releasing the report about flooding at the complainant's property.
14. Therefore, during the course of his investigation, the Commissioner instructed the DfI to carry out further searches for information within the scope of the request based on his interpretation of the request. Whilst the DfI has not accepted the Commissioner's interpretation of the request, it has conducted searches based on his interpretation.
15. The DfI explained it has conducted a search of its intranet site where all guidance used by the Rivers Agency when producing technical reports is held. This search identified 27 technical guidance notes which have been disclosed to the complainant. The DfI explained that it has also consulted staff in the Rivers Agency who have confirmed that the 27 technical guidance notes identified is the only guidance used by staff in the Rivers Agency and that guidance would not be held in any other location.
16. Therefore, whilst the DfI has misinterpreted the request, the Commissioner is satisfied that the DfI has carried out adequate searches for information within the scope of the request. His decision is that on the balance of probabilities, the DfI has disclosed all the information it holds within the scope of the request.

Right of appeal

17. 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

18. 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.
19. 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

Daniel Perry
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF