

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 1 August 2023

Public Authority: Welsh Government
Address: Cathays Park
Cardiff
CF10 3NQ

Decision (including any steps ordered)

1. The complainant submitted a request to the Welsh Government for information relating to a telephone meeting between HRH Prince William and Rt Hon Mark Drakeford on 11 September 2022.
2. The Commissioner's decision is that, on the balance of probabilities, the Welsh Government does not hold the requested environmental information and therefore has complied with regulation 12(4)(a) of the EIR.
3. The Commissioner does not require further steps as a result of this decision notice.

Request and response

4. On 25 February 2023, the complainant wrote to the Welsh Government and requested information in the following terms:

"I would like to request the following information via the Environmental Information Regulations.

My request concerns a meeting between, HRH Prince William and the Rt Hon Mark Drakeford which took place via the telephone on 11 September 2022.

1. Did anyone else participate in the meeting of 11 September 2022 other than Prince William and Mr Drakeford. If they were can you, please identify them.

2. During the meeting/conversation did the Prince and Mark Drakeford discuss the environment and or issues which have implications for the environment (as defined by EIRS). If so, can you, please provide details.

3. Prior to the conversation/meeting taking place where any briefing notes (or similar) and or a draft agenda (or similar) prepared for Mr Drakeford.

If so, can you, please provide copies.

4. Following the meeting did Prince William write to and or communicate with Mr Drakeford about the meeting and or any issues discussed at the meeting. If so, can you, please provide a copy of this correspondence and communication.

5. Following the meeting did Mr Drakeford write to and or communicate with Prince William either about the meeting and or any issues discussed at the meeting. If so can you please provide a copy of this correspondence and communication.

6. Does Mark Drakeford's office and or the Welsh Government hold a recording of the aforementioned telephone conversation/meeting. If so, can it please provide a copy of this recording. Please do redact any information which isn't about the environment, or which doesn't have implications for the environment.

7. Does Mark Drakeford's office and or the Welsh Government hold a written transcript of the telephone conversation/meeting. If so, can it please provide a copy of the transcript. Please do redact any information which isn't about the environment, or which doesn't have implications for the environment.

8. Does Mark Drakeford's office and or the Welsh Government hold a written note of the telephone conversation/meeting. If so, can it please provide a copy. Please feel free to redact any information which isn't about the environment, or which doesn't have implications for the environment.
9. Please provide copies of any minutes of the meeting."
5. A response was provided on 23 March 2023, in which the Welsh Government confirmed that no environmental information was held, in relation to the meeting.
6. Upon receiving this response, the complainant submitted an internal review request on 2 April 2023 and on 16 May 2023, the Welsh Government provided its internal review response and maintained its original position.

Reasons for decision

Regulation 12(4)(a)-information not held

7. Regulation 12(4)(a) of the EIR provides that a public authority may refuse to comply with a request for information to the extent that it does not hold that information when it receives the request.
8. When there is some dispute between the information held by a public authority and the information that a complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, must decide whether, on the civil standard of the balance of probabilities, the public authority holds any information which falls within the scope of the request (or was held at the time of the request).
9. In this case, the complainant believes that "it is highly likely that the Welsh Government holds environmental information of relevance to the request."
10. In submissions to the Commissioner, the Welsh Government explained that searches were carried out in the relevant private office mailboxes. It further explained that this search covered "both the personal mailboxes of private office staff and the generic mailboxes for the Private Secretary, Diary Secretary and the Ministerial electronic diary for the First Minister".
11. Using search terms of 'Prince' and 'Prince of Wales', searches were carried out on network resources, including "shared and personal mailboxes", using the built in search tools within Microsoft Outlook.

12. The Welsh Government further explained that because of these searches, information was retrieved, however no environmental information, relevant to the request, was held.
13. The Commissioner notes the complainant's comments that Prince William has an "ongoing interest in the environment, climate change and conservation". However, like case IC-156269-F2N6¹, no evidence has been provided showing that the First Minister and Prince William discussed anything environmental in this meeting. Therefore the Commissioner has to base his view on the balance of probabilities.
14. When considering the public interest test, the Commissioner can only find that the public interest in maintaining the exception at 12(4)(a) of the EIR outweighs any public interest in disclosure, simply because the information is not held.
15. The Commissioner is therefore satisfied that regulation 12(4)(a) is engaged and he does not require the Welsh Government to take any further steps in this case.

¹ <https://ico.org.uk/media/action-weve-taken/decision-notice/2023/4025564/ic-156269-f2n6.pdf>

Right of appeal

16. 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

17. 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.
18. 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

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