

Environmental Information Regulations 2004 (EIR)

Decision notice

Date: 29 June 2023

Public Authority: Environment Agency

Address: Horizon House
Deaney Road
Bristol
BS1 5AH

Decision (including any steps ordered)

1. The complainant requested information from the Environment Agency (EA) relating to water company incidents as well as staff recruitment and costs. By the date of this notice the EA had not issued a substantive response to this request.
2. The Commissioner's decision is that the EA has failed to respond to the request within 20 working days and has therefore breached regulation 5(2) of the EIR.
3. The Commissioner requires the EA to take the following steps to ensure compliance with the legislation.
 - Issue a substantive response to the request in accordance with its obligations under the EIR.
4. The EA 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 Freedom of Information Act and may be dealt with as a contempt of court.

Request and response

5. On 12 April 2023, the complainant made the following request for information to Environment Agency. This was made via two emails sent in quick succession:

Email 1

"Please could I request the following:

1. The number of water company incidents received by the Environment Agency which were initially categorised as a serious incident (Category 1 & 2) for the last 5 years (2018-2022) for each Environment Agency Region, separated into each individual year;
2. The number of water company incidents received by the Environment Agency which were initially categorised as a serious incident (Category 1 & 2) and had a final classification which was a minor incident (Category 3 & 4) for the last 5 years (2018- 2022) for each Environment Agency Region, separated into each individual year;
3. The number of water company incidents attended by the Environment Agency for the last 5 years for each Environment Agency Region, separated into category of incident and each individual year."

Email 2

"Please could I request the following information:

1. Then number of Water Resources Specialist and Water Resources Officer roles that have been created within the Environment Planning and Integrated Environment Planning teams within the last 3 years, separated out into each year and each Environment Agency Region;
2. The number of staff recruited to the roles of Water Resources Specialist and Water Resources Officer within the Environment Planning and Integrated Environment Planning teams within the last 3 years, separated out into each year and each Environment Agency Region;
3. The staff costs of all Water Resources Specialist and Water Resources Officer roles within the Environment Planning and Integrated Environment Planning teams within the last 3 years, separated out into each year and each Environment Agency Region;
4. The number of permit and licence inspections for water abstraction carried out by staff employed in Water Resources Specialist and Water

Resources Officer roles within the Environment Planning and Integrated Environment Planning teams within the last 3 years, separated out into:

- (i) Each year;
- (ii) Environment Agency Region;
- (iii) Whether the inspection was desk or site based.

5. The total number of permit and licence inspections for water abstraction carried out by the Environment Agency over the last 5 years, separated out into:

- (i) Each year;
- (ii) Environment Agency Region;
- (iii) Whether the inspection was desk or site based."

6. To date, the EA has not acknowledged the requests for information.

Reasons for decision

7. Regulation 5(1) of the EIR states that:

"a public authority that holds environmental information shall make it available on request."

8. Regulation 5(2) of the EIR states that:

"Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request."

9. The Commissioner contacted the EA on 6 June 2023 reminding it of its responsibilities and asking it to provide a substantive response to the complainant within 10 working days. Despite this intervention the EA has failed to respond to the complainant.

10. From the evidence provided to the Commissioner in this case, it is clear that the EA did not deal with the request for information in accordance with the EIR. The Commissioner's decision is that the EA has breached regulation 5(2) by failing to respond to the request within 20 working days and it is now required to respond to the request in accordance with the EIR.

Right of appeal

11. 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

12. 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.
13. 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

Michael Lea
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