



Department
for Environment
Food & Rural Affairs

T: 03459 33 55 77 or
08459 33 55 77
helpline@defra.gsi.gov.uk
www.gov.uk/defra

Your ref:
Our ref: RFI 6674
Date: 16 October 2014

Dear [REDACTED]

**REQUEST FOR INFORMATION: ENVIRONMENTAL INFORMATION REGULATIONS
2004, REGULATION 5**

Thank you for your request for information in relation to an apparent contradiction between the statutory code of practice¹ and a statement made in one of the Information Commissioner's guidance notes dated 14 March 2013². We received your request on 5th June 2014. We have handled your request under the Freedom of Information Act 2000 (FOIA).

I apologise for the delay in responding to you. This has been as due to a number of factors and I am sorry our usual standard has not been met.

You asked four questions. Following a search of our paper and electronic records and consultation with Defra's Environment Information Unit, I have established that the consultations that you suggest may have taken place did not take place or we hold no records of such consultations. To this extent the information that you have requested is not held by Defra. I am however able to provide you some background information in relation to questions 1-3.

1. When were you consulted by the Commissioner, or on his behalf, prior to his advice being published; and if not consulted prior to its publication when was his advice, on which information is considered to be held by a public authority for the purposes of the EIR, brought to your attention?

Defra can inform you that there was no consultation on the 2013 guidance to which you refer. There is no requirement for the Commissioner to consult Defra when drafting his guidance, although officials may sometimes discuss interpretations of the EIRs. For example, officials from the ICO sent Defra a draft version of its general guidance on the EIRs in 2012. However, this document did not include the guidance to which you refer. We have no

¹ issued by the Secretary of State under regulation 16 of the Environmental Information Regulations 2004 (EIRs)

² [Information held by a public authority for the purposes of the EIR \(regulation 3\(2\)\)](#)



record of when the Commissioner's 2013 advice was brought to the attention of the Defra Environmental Information Unit.

2. Was the Commissioner fully engaged by you in the updating process of the Aarhus Implementation Guide?

From the records available Defra does not have information to confirm whether the Commissioner was engaged by Defra in the updating process of the Aarhus Implementation Guide. As the new National Focal Point, Ahmed Azam has asked me to pass on his assurance that the Commissioner will be specifically consulted during the next update of the Aarhus Convention Implementation Guide. Ahmed can be contacted at ahmed.azam@defra.gsi.gov.uk if you have further queries.

3. Has the Commissioner's new advice been brought to the attention of the Aarhus Compliance Committee and if so when?

From the records available Defra does not have information to confirm if the new advice has been brought to the attention of the Aarhus Compliance Committee.

4. Please supply me with copies of any recorded information you hold (other than this communication) on the Commissioner's advice on which information is considered to be held by a public authority for the purposes of the EIR.

Defra holds no such information in respect of the 2013 advice to which you refer.

I can confirm that to the best of our knowledge the information is not held by another public authority. I attach an annex giving contact details should you be unhappy with the service that you have received.

If you have any queries about this letter, please contact the address below.

Yours sincerely

Defra FOIA and EIRs Team
InformationRequests@defra.gsi.gov.uk

Annex

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF