



Information Rights Team
Rural Payments Agency
North Gate House
Reading
RG1 1AF

T: 03000 200 301
Twitter: @Ruralpay
www.gov.uk/rpa

Tel: 03300 416502
Fax: 03300 416574
Email: irt@rpa.gsi.gov.uk

17 October 2017
Ref: RFI 4615

Dear [REDACTED]

Re: Environmental Information Regulations – Information Request

Thank you for your requests dated 14 September 2017, which has been dealt with under the Environmental Information Regulations 2004 (EIR).

You have asked a number of questions relating to cross compliance inspections in the last five years which have been set out below alongside our response to each question.

Please note that as the 2017 cross compliance season is still in progress, and any deductions from claims have yet to be made, the information you have requested for 2017 is not currently held by the RPA. Therefore the information you have requested for 2017 is exempt from disclosure under regulation 12(4)(a) of EIRs, 'Information not held'. As this is a qualified exemption, a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. However, the Information Commissioner (IC) takes the view that a public interest test in cases where the information is not held would serve no useful purpose. Therefore in line with the IC's view the RPA has not conducted a public interest test in this case.

As a result, the information we have provided relates to the 2012-2014 Single Payment Scheme (SPS) and 2015-2016 Basic Payment Scheme (BPS) scheme years.

- (i) non-compliance records with agricultural regulations (e.g. each cross-compliance SMR and GAEC in addition to any other categories of regulations codified by the RPA/EA)**
- (iii) for each record, details of the subsidy payments (in number and monetary value) that were withheld as a result of non-compliance.**

The information relating to these two questions has been provided within the attached WinZip file, which contains:

- Five comma separated variable (CSV) files, listing the number of cross-compliance inspection failures by county, along with the cross compliance breach codes and the financial penalties applied to claims.

- 22 PDF files containing the “Verifiable Standards” associated with SMR and GAEC, which we have included to facilitate your understanding of the cross compliance breach codes in the CSV files.
- A PDF file containing a “Penalty Matrix” used to determine the percentage deductions to be applied to the claims of those applicants found to be in breach of cross compliance.

We have not provided the percentages applied to the individual cross compliance failures in the CSV files, because this information, in conjunction with the monetary values of the penalties, could be used to determine the total claim amounts, which could, in conjunction with other information in the public domain, be used to determine the identities of businesses and individuals found to be in breach of the regulations, therefore the exception to the duty to disclose environmental information set out in Regulation 12(3) (Personal Information) of the EIRs applies.

Under the EIRs, personal data that is not the personal data of the applicant for information, should not be disclosed other than in specific circumstances set out in Regulation 13 none of which apply here. The RPA considers any information which could identify a living individual, to be personal data.

The Data Protection Act (DPA) 1998 defines personal data as follows:

"personal data" means data relating to a living individual who is or can be identified either from the data or from the data in conjunction with other information that is in, or is likely to come into, the possession of the data controller;

Under Regulation 13 of the EIRs we are not able to disclose personal data if to do so would contravene any of the data protection principles.

The First Data Protection Principle states:

"Personal data should be processed fairly and lawfully and in particular shall not be processed unless at least one of the conditions in Schedule 2 is met..."

We consider that, in the absence of consent from the data subject(s), the only condition in Schedule 2 which could have any relevance is condition 6 i.e.

"The processing is necessary for the purposes of legitimate interests pursued by the data controller or by the third party or parties to whom the data are disclosed, except where the processing is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject"

In this context, the legitimate interests of a third party are held to be the legitimate interests of the public at large rather than a particular individual. Having considered the balance between the legitimate interests of the public at large and the rights or legitimate interests of the data subject we do not consider that the information should be released. This is because:

- There is insufficient general public interest in the level of detail you are requesting to be released to justify the disclosure; and
 - The data subjects have not given permission to share their data with the public at large and the data release would therefore be unfair and incompatible with the purpose of which it was collected.
- (ii) for each record, details of pollution associated with the non-compliance, including type of pollution identified (e.g. slurry, sediments, pesticides, other farm wastes etc.), category of the pollution incident and any information on impact caused by the pollution (e.g. impact on a watercourse etc.)**

Other than the breach codes provided in answer to question (i), the RPA does not hold any further detail on these breaches, therefore Regulation 12(4)(a) 'information not held' applies.

- (iv) for each record, the type of farm associated with the non-compliance (e.g. arable, dairy etc.)**
- (v) the costs of identifying each non-compliance per entry (such as staff time and costs, admin costs etc.)**
- (vi) the average cost per incident of non-compliance**
- (vii) annual staff time spent (in hours) on dealing with non-compliance**

The RPA can confirm that it does not hold the answers to these questions, as per regulation 12(4)(a) of the EIR.

If you are not happy with the way we have handled your request, you can ask for an internal review. These requests should be submitted in writing within two months of the date of receipt of the response to your original request and should be addressed to the Information Rights Team at the Rural Payments Agency, North Gate House, 21-23 Valpy Street, Reading, RG1 1AF or alternatively email your request for a review to irt@rpa.gsi.gov.uk.

If you are not content with the outcome of the internal review, you have 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 RPA's own complaints procedure. The Information Commissioner can be contacted at: [Information Commissioner's Office](#), Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

If you have any queries about this let us know.

Yours sincerely,

Information Rights Team

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 Follow us on Twitter @Ruralpay

