

**Freedom of Information Act 2000 (FOIA)
Environmental Information Regulations 2004 (EIR)**

Decision notice

Date: 23 March 2017

Public Authority: Department for Environment, Food and Rural Affairs

Address: Noble House
17 Smith Square
London
SW1P 3JR

Decision (including any steps ordered)

1. The complainant has requested information from the Animal and Plant Health Agency ("APHA") about bovine tuberculosis cultures.
2. As an executive agency of the Department for Environment, Food and Rural Affairs ("DEFRA"), APHA does not constitute a public authority for the purposes of FOIA and EIR and so this notice is issued to its parent Department.
3. The Commissioner's decision is that APHA did not deal with the requests for information in accordance with the EIR in the following way:
 - It failed to provide a response to the requests within the statutory timeframe of 20 working days as set out in regulation 5(2) of the EIR.
4. As a response has now been provided, the Commissioner requires APHA to take no steps.

Request and response

5. On 3 June 2014, the complainant contacted APHA via the government portal at data.gov.uk and requested information in the following terms:
 - *"Please can you advise in relation to defra and bovine TB, how many cases were cultured in 2013?"*
6. The complainant did not receive a response.
7. On an unspecified date in April 2015, the complainant made the following further request for information to APHA via data.gov.uk:
 - *"In relation to Bovine TB - please advise: How many tb cultures are grown for a second time?"*
 - *How many require decontamination?*
 - *What is the cost of decontamination of a culture?*
 - *In respect of the laboratory work -How many companies are used by defra for growing tb cultures?"*
8. APHA responded on 21 November 2016 and provided the information that the complainant had requested in his requests of 3 June 2014 and April 2015 respectively.

Scope of the case

9. The complainant contacted the Commissioner on 28 November 2016 to complain about the way his requests for information had been handled.
10. The Commissioner considers that the scope of the case has been to consider whether APHA and its parent Department DEFRA handled the requests in accordance with regulation 5 EIR (duty to make environmental information available on request).

Reasons for decision

11. Regulation 5(2) of the EIR states that a public authority that holds information shall make it available as soon as possible and no later than 20 days after the date of receipt of the request.

12. APHA has explained that, at the date of the complainant's requests, requests for information submitted via data.gov.uk were forwarded to DEFRA by the Cabinet Office for response.
13. DEFRA passed the requests to APHA in April 2015 without the contact details of the complainant, after which APHA provided the information to DEFRA so that it could be provided to the complainant.
14. DEFRA did not provide the information to the complainant.
15. In November 2016, after discovering that the information had not been provided to the complainant, APHA obtained his contact details and provided the information to him directly.
16. From the information provided to the Commissioner in this case, it is evident that neither APHA nor its parent Department DEFRA responded either to the request of 3 June 2014 or to the request of April 2015 within the statutory timeframe of 20 working days. DEFRA has therefore breached regulation 5(2) of the EIR.
17. As a response has been provided to the complainant, the Commissioner requires DEFRA to take no steps.

Right of appeal

18. 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: 0300 1234504

Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

19. 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.
20. 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

Alun Johnson
Team Manager
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Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF