

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

**Decision notice**

**Date:** 8 October 2012

**Public Authority:** Animal Health Veterinary Laboratories Agency  
(an executive agency of DEFRA)

**Address:** Block C, Spur 3  
Government Buildings  
Whittington Road  
Worcester  
WR5 2SU

**Decision (including any steps ordered)**

---

1. The complainant has requested the disclosure of the Animal Health Operation Manual (the "manual"). The Animal Health Veterinary Laboratories Agency (the "AHVLA") confirmed it held the relevant information but refused the request under regulation 12(4)(c), "request formulated in too general a manner" and 12(4)(b) as manifestly unreasonable". It also claimed that even if these exceptions did not apply disclosure of the manual would result in the release of internal communications (regulation 12(4)(e)).
2. The Commissioner's decision is that the AHVLA has incorrectly applied the provisions of regulation 12(4)(c) and 12(4)(b) to the complainant's request and, by its refusal of the request, has not dealt with the request in accordance with the requirements of the EIR. He has not at this stage considered the application of regulation 12(4)(e). This is in order to allow the AHVLA the right to appeal against his decision on its primary case that the request is for too large a volume of information for it to be expected to answer.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation.
  - Respond to the request in compliance with the requirements of regulation 5(1) of the Environmental Information Regulations 2004, by either providing the information or issuing a refusal notice relying upon provisions other than regulation 12(4)(b) or 12(4)(c).

- Should the AHVLA, upon considering the information in detail, find that any of it is not environmental information as defined by regulation 2(1) then it should either provide that information or issue a refusal notice relying upon a provision of FOIA, in accordance with the requirements of section 17 of FOIA.
4. The AHVLA 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 Act and may be dealt with as a contempt of court.

## Request and response

---

5. The Commissioner notes that AHVLA is not a public authority in its own right but is an executive agency of DEFRA. Therefore the public authority in this case is DEFRA. For the purpose of this decision notice AHVLA is referred to as if it were the public authority.
6. On 01 August 2011, the complainant wrote to the AHVLA and requested information in the following terms:  
  
*"Please would you kindly e-mail me a copy of the current Animal Health Operations Manual?"*
7. The AHVLA responded to the information request on 04 August 2011. The AHVLA argued that the manual could not be released due to technical reasons.
8. The AHVLA claimed that the request was too general and asked the complainant to provide a section of interest in the manual that the AHVLA could then consider for release (regulation 12(4)(c)).
9. The AHVLA also claimed that the disclosure of the manual would result in the release of internal communications (regulation 12(4)(e)).
10. On the same day the complainant asked for an internal review to be undertaken. The complainant argued that the manual was a publication that could feasibly be disclosed. He did not provide clarification.
11. On the 09 August 2011 the AHVLA responded to the complainant after conducting an internal review. It upheld its findings in the initial refusal notice and confirmed that the manual was a large suite of integrated programmes. The AVHLA implied that disclosure in entirety was a manifestly unreasonable request (regulation 12(4)(b)). The AHVLA asked the complainant for a "*specific area of interest*" in order to help disclose information embedded within the manual.

12. The complainant did not respond to the AHVLA.

### Scope of the case

---

13. The complainant contacted the Commissioner to complain about the way his request for information had been handled.
14. In correspondence with the Commissioner the AHVLA subsequently confirmed that as well as applying the exceptions found at regulation 12(4)(c) and 12(4)(e) it also considered the request as manifestly unreasonable under 12(4)(b). The Commissioner has accepted the late application of this exception.
15. The scope of this case will be to consider the AHVLA's use of the exceptions found at regulation 12(4)(b) and 12(4)(c). The Commissioner has not at this stage considered the application of regulation 12(4)(e). This is because in order to do this he would need the AHVLA to provide him with a copy of the requested information, which would defeat the object of it advancing its primary case that it would be an unreasonable amount of work for it to collate this information.

### Reasons for decision

---

#### Regulation 12(4)(c)

16. Regulation 12(4)(c) states as follows:

*"(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that-*

*(c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9."*

17. The Commissioner's view is that this exception only relates to requests for information that are too vague, unclear or non-specific. He distinguishes this from requests that might be considered 'too big' or relating to too extensive an amount of information, which may be covered by regulation 12(4)(b) (manifestly unreasonable).
18. In its correspondence with the Commissioner the AHVLA confirmed that it was refusing the request not because it didn't understand what information the complainant was asking for, but because it considered that the request was for too much information.

19. The Commissioner finds that the request was sufficiently clear for the AHVLA to understand and to identify the requested information. He therefore finds that this exception is not engaged.

**Regulation 12(4)(b)**

20. Regulation 12(4)(b) states as follows:

*“(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that-*

*(b) the request for information is manifestly unreasonable.”*

21. The Commissioner is clear that the inclusion of “manifestly” in regulation 12(4)(b) indicates Parliament’s intention that, for information to be withheld under this exception, the information request must meet a more stringent test than being simply “unreasonable”. “Manifestly” means that there must be an obvious or clear quality to the unreasonableness referred to.
22. The Commissioner is of the view that this regulation provides an exception to the duty to comply with a request for environmental information in two circumstances:
- where it is vexatious, or
  - where it would incur unreasonable costs for the public authority or an unreasonable diversion of resources.
23. However, that is not to say that the exception is limited to these two circumstances. It clearly is not possible to identify all situations in which a request will be manifestly unreasonable and there may well be other situations where regulation 12(4)(b) can apply
24. In this case the request asks for the disclosure of the Animal Health Operation Manual. Despite its name the manual is not a publication but an integrated suite of IT programmes. The AHVLA said it was impossible to provide a ‘copy’.
25. The AHVLA confirmed that the manual contained “*everything*” that the agency does; from its corporate operations to environmental disaster response procedures. The system is used by all staff. The AHVLA argued that the request was “*similar to asking for a copy of Wikipedia.*”
26. As well as large volumes of information the manual contains interactive links which relate to individuals who have responsibility for various areas of work within AHVLA. It also contains internal work instructions and materials

- i.e. enforcement techniques and issues, evidence gathering instructions and guidance on witness statements.
27. The Commissioner considered the AHVLA's arguments but came to the conclusion that, despite the way in which the manual was held and the volume of information in question, it wasn't actually impossible for the manual to be provided. He suggested to the AHVLA that it would be possible, and a relatively simple task, for it to download the manual into a CD. At this point the AHVLA agreed that it would be technically possible for it to do this, but said that the manual contained some "PROTECT – Personal" information that it would not wish to disclose and that the time and effort that would be needed to identify and remove this data were enough to make the request manifestly unreasonable.
  28. The Commissioner asked the AHVLA to provide more detail about how involved this process would be and to undertake a sampling exercise to support a cost/time estimate. The AHVLA did not provide the Commissioner with the detail he had asked for but instead stated that *"The IT dept. have now informed me, that it would be possible to provide a CD version of the Ops Manual with all the PROTECT data removed. They did not go into details about the method of achieving this but said that it could be done without too much effort."*
  29. The Commissioner has some sympathy with the general argument that where extremely large volumes of information have been requested, and there are obvious and substantiated concerns about potentially excepted information, which cannot be easily isolated because it is scattered throughout the whole of the requested information, then a request could potentially be deemed to be manifestly unreasonable because of the disproportionate time and effort that would be needed to review and remove the excepted information.
  30. The First Tier Tribunal (Information Rights) in the case of [\*The Independent Police Complaints Commission vs The information Commissioner EA/2011/0222\*](#) stated in relation to section 14 FOIA that *"A request may be so grossly oppressive in terms of the resources and time demanded by compliance as to be vexatious, regardless of the intentions or bona fides of the requester."*
  31. However, in this case the AHVLA has failed to support its argument in any meaningful way. The Commissioner therefore finds that the AHVLA has not adequately demonstrated that regulation 12(4)(b) is engaged.
  32. Therefore, the Commissioner's decision is that the AHVLA has incorrectly applied the provisions of regulation 12(4)(c) and 12(4)(b) to the complainant's request and, by its refusal of the request, has not dealt with the request in accordance with the requirements of the EIR.

## Right of appeal

---

33. 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: 0116 249 4253

Email: [informationtribunal@hmcts.gsi.gov.uk](mailto:informationtribunal@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm](http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm)

34. 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.
35. 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** .....

**Lisa Adshead**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**