

Freedom of Information Act 2000 (FOIA)

Decision notice

Date: 4 June 2013

Public Authority: Marine Management Organisation

Address: Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

Decision (including any steps ordered)

1. The complainant requested evidence supporting a statement contained in the Marine Management Organisation's ("MMO") annual report for 2011/12 that a performance measure, that it would process and cross check 100 per cent of fishing activity data within agreed deadlines, had been met. The MMO informed the complainant that the internally agreed deadline was that 95% of data would be input within 5 working days of receipt and provided evidence that this had been achieved. The complainant complained to the Commissioner that the MMO's response should have been that it did not hold any information falling within the scope of her request.
2. The Commissioner's decision is that the MMO has breached sections 1(1)(a) and 10(1) by not informing the complainant that it did not hold any information falling within the scope of the final part of her request.
3. The Commissioner requires the public authority to take the following steps to ensure compliance with the legislation:
 - To respond to the complainant confirming that it does not hold any information falling within the scope of the final part of her request.

Request and response

4. On 14 January 2013, the complainant wrote to the MMO and requested information in the following terms:

"Further to the publishing of the Annual report 2011/2012 @ [http://www.marinemanagement.org.uk/about/documents/annual_report_accounts_1112.p df](http://www.marinemanagement.org.uk/about/documents/annual_report_accounts_1112.pdf) and specifically S04 / KPM6 (pasted below), could you please confirm what the 'agreed deadlines' are, and whom they are agreed with. Could you also please forward any and all evidence that these 'deadlines' have been met for the period 2011/2012 to which the report refers.

SO4/KPM6

Effectiveness of fishing activity data processing.

*100 per cent of fishing activity data fully processed and cross-checked within agreed deadlines. (Target - 100 per cent of fishing activity data fully processed and cross-checked within agreed deadlines) **Met**"*

5. The MMO responded on 11 February 2013. It stated that:

"...delivery of SO4/KPM6 '100% of fishing activity data fully processed and cross-checked within agreed deadlines' is verified by the achievement of the following measure which was agreed internally:

- Entry of data from over 10 metre vessel log sheets – Agreed deadline: 95% of input within 5 working days of receipt"*

6. The MMO provided a summary report to the complainant which it believed showed that this target had been met.
7. The complainant requested an internal review on 11 February 2013. Amongst the points that she made, was that the performance measure was that 100% of fishing data was to be entered within agreed deadlines. The response that she received indicated that less than 100% of data had been entered within the deadline and therefore the performance measure could not have been met. In addition, the information only related to data processing for over 10 metre vessels, not all fishing vessels.
8. The MMO wrote to the complainant on 11 March 2013 with the outcome of the internal review. It upheld its original decision.

Scope of the case

9. The complainant contacted the Commissioner on 14 March 2013 to complain about the way her request for information had been handled. Following discussions with the Commissioner, the complainant confirmed that the scope of her complaint was limited to the final part of her request, for all evidence that the MMO had met the relevant key performance measure for the period covered by the annual report for 2011/12.
10. The Commissioner considered whether the MMO held the information that the complainant had requested in the final part of her request.

Reasons for decision

11. Section 1 of FOIA requires a public authority to inform a requester whether it holds information of the description specified in a request.
12. The MMO explained to the Commissioner that, as part of its performance reporting process, it formulated deadlines and measures to underpin the delivery of any key steps and key performance measures set out within its corporate plan. These deadlines were agreed internally, against operational processes, where performance could be effectively measured and monitored throughout the reporting period and it was the delivery of these underpinning measures, which informed the overall targets set out within the corporate plan. In addition to this, and as an organisation committed to openness and transparency, it published its performance against these targets within its annual report each year.
13. The MMO informed the Commissioner that in its response to the request on 11 February 2013, it confirmed that there was one agreed deadline underpinning SO4/KPM6 for the annual reporting period covering 2011/12. This was:

*"Entry of data from over ten metre vessel log sheets - Agreed
Deadline : 95% input within five working days of receipt"*
14. Within its response it also provided evidence of the delivery of this deadline through the confirmation that 96.4% of data was entered within 5 working days of receipt of the associated log sheet.
15. The MMO was therefore of the view that it had responded to the request appropriately and in compliance with requirements of FOIA, which included confirming the measure underpinning SO4/KPM4, including a

description of the measure, and providing all information held that fell within the scope of the information requested.

16. The MMO believed that the points raised by the complainant on receipt of the information provided to her suggested that she was dissatisfied with the nature of the measure underpinning the relevant target, rather than its handling of her request for information specifically.
17. The Commissioner notes that the complainant was seeking evidence that the key performance measure, that 100 per cent of fishing activity data would be fully processed and cross-checked within agreed deadlines which was contained in the MMO's annual report for 2011/12, had been met.
18. The MMO explained that its internally agreed performance measure for the relevant period was that it would input 95 per cent of data from over ten metre vessel log sheets within 5 working days of receipt. By providing the complainant with evidence that over 96 per cent of log sheet data had been entered within 5 working days of receipt, it argued that it had complied with the request by providing the relevant evidence that this performance measure had been met.
19. The Commissioner's view is that the MMO's statement, that 96.4 per cent of data had been input within the deadline that it had set of 5 working days, confirms that it had not achieved 100 per cent of fishing activity data being fully processed and cross checked within that agreed deadline. It therefore could not provide evidence that the relevant key performance measure contained in the annual report had been met.
20. The MMO should therefore have informed the complainant that it did not hold any information falling within the precise scope of the final part of her request. As a result of failing to do so by the time of the conclusion of the internal review, the MMO breached section 1(1)(a). In addition, it breached section 10(1) as it did not comply with section 1(1) within 20 working days of receiving the request.

Other matters

21. The Commissioner is concerned that the MMO did not confirm that it did not hold any information which fell within the precise scope of the complainant's request. Had it done so at an early stage, this would have avoided the unnecessary expenditure of a considerable amount of time. In future the Commissioner would expect the MMO to make clear in any response to a request whether it holds the information that has been requested.

Right of appeal

22. 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

Website: www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/information-rights/index.htm

23. 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.
24. 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

Rachael Cragg
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