

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

Date: 8 January 2014

Public Authority: Marine Management Organisation

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

Decision (including any steps ordered)

1. The complainant made a request to the Marine Management Organisation ("MMO") for protocols and findings in relation to the checks and balances it had in place to ensure the robustness of its systems for the handling of fishing data. The MMO applied regulation 12(4)(b) (manifestly unreasonable) to the request.
2. The Commissioner's decision is that the MMO has breached regulation 14(3)(a) of the EIR by not issuing a refusal notice stating that it did not hold any information falling within the scope of the request and citing the exception contained in regulation 12(4)(a) to the request.
3. The Commissioner does not require the MMO to take any further steps to ensure compliance with the legislation.

Request and response

4. On 15 August 2012 the complainant made a number of requests for information to the MMO about checks in relation to its data handling and reporting systems. This included the following request:

"You state that the MMO has its own checks and balances, [which] gives the team high confidence in the robustness of the system. Do you publish the MMO's protocols for handling of

fisheries data, including details of the checks and balances you have in place, and do you publish the findings of such checks and balances that are in place? If so could you please direct me to them, if not please can you consider this an EIR request for the protocols, guidance, and results of these checks and balances the MMO themselves conduct?"

5. The MMO responded on 19 September 2012. It provided a list of e-logbook variation rules and a list of validation checks that had been carried out. With regard to the part of the request for the result of the checks carried out, it explained that a large volume of system checks and cross checks that took place. The MMO therefore applied regulation 12(4)(b) to this part of the request.
6. On 24 September 2013, the complainant wrote to the MMO as she was not satisfied with the response that she had received. She believed that it had not properly identified the scope of her request.
7. On 22 October 2012, the MMO wrote to the complainant with the result of its review. It upheld its original decision.

Scope of the case

8. The complainant contacted the Commissioner on 24 November 2012 to complain about the way her request for information had been handled by the MMO, specifically, that it had not correctly identified the scope of her request and it had incorrectly applied regulation 12(4)(b).
9. The Commissioner considered whether the MMO had correctly identified the scope of the complainant's request and whether it was entitled to rely on regulation 12(4)(b) in its response to her.

Reasons for decision

Information falling within the scope of the request

10. The complainant's request was for the MMO's protocols for the handling of fisheries data, including details of the checks and balances that it had in place and the findings of such checks and balances.
11. In its response to the complainant, the MMO provided her with a list of e-logbook variation rules and a list of validations checks which were carried out as part of its handling of fishing data. It explained that these were operational documents intended for the use of appropriate

members of staff within the MMO and were therefore not designed with external use in mind.

12. With regard to the request for the results of the checks and balances, the MMO informed the complainant that, as could be seen from the documentation provided, it operated a large amount of system checks, including additional cross-checking. During this process many of the checks flagged up errors live to staff during the process of data entry. The corrections took place at this point and no record was made of this. In relation to the e-logbook system, the MMO explained that there was a degree of system processing that took place, with most of the checks relating to individual vessel activity.
13. The MMO stated that, due to the sheer volume of checks and subsequent cross checking that took place, it was unable to begin extracting any information she was seeking without further details of the precisely what she required. It went on to say that, even with a narrowing of the scope of the request, it felt that, given the amount of information involved, it would take a significant amount of work and diversion of resources to complete. Consequently, it applied regulation 12(4)(b) to the request as it viewed it as manifestly unreasonable.
14. The MMO did invite the complainant to contact it if, following a review of the documentation it had provided, she felt that she was able to narrow down the scope of her request to the point that it would be able to provide the information she required.
15. Following receipt of its initial response to her request, the complainant wrote to the MMO to express her dissatisfaction with it. In her email she explained that she had made her request as a direct result of the MMO's Chief Executive's assertions as to the robustness of statistics that the MMO compiled because of internal and external audits that took place. She went on to explain that what she was looking for was copies of the latest completed audits of this system by the MMO.
16. By way of further explanation, the complainant said that the information that she was seeking was in relation to the process (presumably a detailed description) that the MMO followed to spot check and audit the data, not what it did as normal course of business to track and deal with statistics, which is what she believed she had been sent. She stated that she wanted what happened to audit those statistics.
17. In response to the complainant, the MMO confirmed that the information provided to her was details of the actual checks it carried out, including descriptions of those checks. It stated, in addition to this, it also conducted additional quality assurance checks, which were carried out randomly and act as an additional 'safety-net' to its automatic system

checks. It reiterated its position that it was not able to provide the results of completed checks due to the volume of checking and cross-checking that took place across the various systems it operated and that, consequently, regulation 12(4)(b) was applicable. It repeated its offer to explain the process of system checking, including the documentation provided.

18. As part of its explanation to the Commissioner as to why it believed that regulation 12(4)(b) was applicable to the complainant's request, the MMO provided him with a detailed description of the level of checking carried out on its systems which it operated for the purposes of fisheries management. The checks it described related to each individual fishing trip carried out by fishing vessels. It explained that, in addition, there were separate checks which were carried out once data for each individual trip was captured on its systems.
19. The MMO went to explain that in 2012 there were on average about 22,000 fishing vessel landings per month. It provided the Commissioner with a detailed explanation of what it would need to do to extract information regarding the number of checks, and the results of the checks carried out, in relation to each landing. It estimated that it would take approximately 2 hours per landing to do this. Consequently, it estimated that it would take 44,000 hours to provide the information requested just for a period of one month. In light of this, the MMO was satisfied that, given the time and resources required to provide a response to the request, it was correct to consider that that the request was manifestly unreasonable under regulation 12(4)(b).
20. The Commissioner acknowledges that if the MMO's view as to the scope of the request was accepted, it has a sound basis for applying the exception in regulation 12(4)(b). However, he notes that, when she received the MMO's initial response to her request, the complainant made it clear that she believed that the MMO had misinterpreted the scope of that request. The Commissioner therefore considered what he believed the scope of the request to be.
21. In relation to the complaint's request for details of the findings of the checks and balances that it had in place, as outlined above, the MMO believed that the scope of this encompassed details of the checks that it carried out in relation to each individual fishing trip carried out by fishing vessels that appeared in its systems.
22. The Commissioner notes that the complainant's request was made in the context of email exchanges with the MMO about its systems for handling fishing data. These exchanges generally related to high level issues about the quality of the data and the robustness of the systems the MMO had in place rather than discussions about detailed technical issues

related to the handling of that data. The email in which the request is contained also contains requests for information about EU oversight and review of the MMO's systems, including requests for relevant reports.

23. Given the context of her request, it appears to the Commissioner, that what the complainant was seeking to obtain was information about higher level checks that the MMO might undertake with regard to its systems rather than very detailed information about its day to day operations, including the specifics of every check that was carried out on the data that was entered into its system for every fishing trip that took place.
24. In addition, the fact that the complainant asked whether the MMO published the findings of its checks that she had asked for suggests that she did not believe her request encompassed the very large amounts of information which would inevitably fall within the MMO's interpretation of the scope of the request.
25. The Commissioner believes that this view is reinforced by the content of the complainant's email following the MMO's initial response. In this email, she explained that her request came as a direct result of its Chief Executive's assertions as to the robustness of statistics that it compiled because of internal and external audits that took place. She went on to explain the information that she was seeking was in relation to the process that the MMO followed to spot check and audit the data, not what it did as normal course of business to track and deal with statistics, which is what she believed she had been sent. She stated that she wanted what happened to audit those statistics.
26. This again suggests that what the complainant was seeking to obtain was information about more overarching audits of the MMO's systems regarding the collection and inputting of fishing data as opposed to information regarding the more routine, day to day system checks that it carried out.
27. In addition, the Commissioner notes that the MMO was very aware that the complainant was involved in the fishing industry and so very familiar with the workings of that industry. Given this, it would have been apparent that the complainant would have known that there was a very large numbers of fishing trips undertaken every year by vessels falling within the remit of the MMO. Consequently, it would seem unlikely that she would make a request for details of the checks carried out in relation to the processing of data for every one of those fishing trips because she would appreciate that it would have been impractical for the MMO to provide that amount of information, given the large resource implications of doing so.

28. Based on the above, the Commissioner has determined that the scope of the complainant's request did not include details of the carried out by the MMO in relation to each individual fishing trip carried out by fishing vessels. Consequently, his decision is that the MMO incorrectly applied regulation 12(4)(b) to the request.
29. The two documents that were provided to the complainant by the MMO were very detailed documents clearly intended for the use of those people operating the MMO's systems for the inputting of fishing data. It appears to the Commissioner that those documents would have very little meaning, and consequently be of little value, to those who did not have a detailed working knowledge and understanding of the MMO's systems in this area. As the MMO itself acknowledged, they were not designed with external use in mind.
30. Again, the Commissioner is not persuaded that this was information that fell within the scope of the complainant's request as they were documents very much concerned with the day to day operational processes of inputting data.
31. During the course of the Commissioner's investigation, the MMO did not provide him with details of any other information that potentially fell within the scope of the complainant's request.
32. In light of the above, the Commissioner has determined that the MMO did not hold any relevant information falling within the scope of the complainant's request and that it should have informed her of this. His decision is therefore that the MMO has breached regulation 14(3)(a) of the EIR by not issuing a refusal notice stating that it did not hold any information falling within the scope of the complainant's request and citing the exception contained in regulation 12(4)(a) to the entirety of the request. The Commissioner does not require the MMO to take any further steps to ensure compliance with the legislation

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: GRC@hmcts.gsi.gov.uk

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

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

Rachael Cragg
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