

Mr. J. Carroll
By email via whatdotheyknow.com

Our ref: NROCT106
Your ref:

Date: 17 December 2013

Dear Mr Carroll

Review of Freedom of Information Request

Request by Mr J Carroll in respect of information relating to the display of information on What's in Your Backyard (WIYBY) on the Environment Agency web-site

I refer to your e-mail dated 3 October 2013, in which you asked us why information on landfill type was removed from our web site from July 2013 and your email of 23 October 2013 in which you requested that we carry out an investigation into why this occurred.

I apologise for the delay in responding to you; our immediate concern following your email was to replace the data we had available, so that it now contains a better dataset with improved descriptions.

Your 3 October email included a request for "any recorded information as to why [the dataset] was changed in terms of new legislation, change of EA policy or executive decisions made ... for example meeting minutes/letters of authorisation and the level at which this decision was made etc."

Your follow-up request of 23 October asked for more detail about how the data came to be omitted from WIYBY, and asked some new questions about: our reaction to the information that WIYBY had been changed; whether information has been lost or is retrievable; the cost of re-instating it as it was; documentation of any internal investigation into how the change happened; and confirmation that "hacking" was not involved in the changes.

Review

We have conducted an internal review which has concluded that the response made on 22 October 2013 did not address all the elements of your request. We did not refer to your queries about how the data came to be removed from WIYBY nor did we refer to any decision-making process leading to the change. We did confirm that the decision made to remove some of the information was incorrect, and we stated that we didn't act quickly enough to provide a replacement data field which led to deterioration in our service between July and October 2013.

I detail the findings of our internal review below:

- In July 2013 the issue of incomplete records in certain data fields e.g. landfill site type description was discussed and it was agreed between the web team and the Data Custodian that this field would be removed and replaced. We failed to ensure continuity of service, in that the replacement field was not uploaded until after we received your email. This meant that the quarterly data updates to WIYBY, provided in July, did not include the new data field. This has now been corrected and the new field has been provided.

- The failure can be traced to poor communication between the team that provides the web update and the Data Custodian.
- Following your query of 3 October 2013 the Data Custodian arranged for the web team to replace the missing field with improved data which now describes a landfill site type for the majority of records. This was rectified in November. The remaining records with incomplete data will be updated in early 2014. This work is being done to address the initial issue of incomplete records from the original data field displayed.
- Procedures are now in place to ensure this situation does not arise in the future and the Data Custodian will continue to check that the new data field is uploaded for at least the next two quarterly updates. The web team has been made aware of your feedback as a customer and they now have a better understanding of the need to ensure we make available all the data supplied to them by the Data Custodian.

We enclose copies of emails between 10th and 30th October 2013 following your request, which show the actions taken to re-instate the data. We have removed a reference to a third party, on the basis that information which identifies a living individual is personal data under EIR regulation 13(1), which states:

“To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data”.

The ‘first condition’ referred to above is further explained in Regulation 13(2) (a):

“...in a case where the information falls within any of paragraphs (a) to (d) of the definition of “data” in section 1(1) of the Data Protection Act 1998, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene —

i) any of the data protection principles...”.

It is the view of the Environment Agency that the information requested relates to another person, and that its disclosure would therefore contravene the First Data Protection Principle of the Data Protection Act 1998.

The First Data Protection Principle requires that we are fair to individuals when we collect, hold and use their personal data. In this case it would be unfair to disclose information that would identify individuals who have corresponded with us, as those individuals have a reasonable expectation that such information held by the Environment Agency would remain confidential.

There is no requirement to conduct a public interest test where the refusal relates to the exception for personal data.

Other points you raised are answered below:

- The removal of the data was not due to hacking or any outside influence.
- The cost of providing a replacement field is estimated at between £30-50. This is the data officer time to insert a new field into the data update.
- The data not displayed is still available and we will provide it on request if required. However, the field is not complete for all records and we feel that the current data field provides more information to the customer.

Service levels

Our first response was made within 13 days, so meeting the 20 working day timescale set by the Fol regime. When asked to review a response, we should do so

within a maximum of 40 working days. I find that we followed our internal Freedom of Information procedures and that we complied with our duty to respond within the statutory timescales. However we apologise that it has taken us longer than 20 days to complete the internal review.

Right of Appeal

If you are not satisfied with our response to your new questions raised on 23 October 2013, you can ask us to review our response within 2 calendar months.

If you are not satisfied with our review of the response dated 22 October 2013, you can make an appeal to the Information Commissioner, who is the statutory regulator for freedom of information. The address is:

Office of the Information Commissioner, Wycliffe House, Water Lane, Wilmslow,
Cheshire SK9 5AF.
Tel: 01625 545700.
Fax: 01625 524 510.
E-mail: mail@ico.gsi.gov.uk.
Website: <http://www.informationcommissioner.gov.uk>

Yours sincerely

Heather Barker
Environment & Business – Site Based Regulation Technical Manager

Email: heather.barker@environment-agency.gov.uk