

Department for Communities and Local
Government
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Telephone: 030 3444 0000

Mr Frederick Wesley
Via WDTK.com

Date: **15 December 2016**

Dear Mr Wesley

**Internal review under the Environmental Information Regulations 2004
- 2641900**

Thank you for your request for a review received on 5 December 2016. I am sorry that you are dissatisfied with our attempts to handle your request under the Environmental Information Regulations 2004 ("the EIR"). I am the review officer appointed to undertake the internal review and I am writing to provide a response. I had no involvement in the original response to your request.

Background

On 18 August 2016, you wrote to the Department requesting the following:

- 1. The total number of allotment disposal applications received since the 01/01/14.*
- 2. The total number approved for deregulation since the 01/01/14.*
- 3. Of the total number approved, the number approved under "exceptional circumstances" as stated at 1.7 of the current Allotment Disposal Guidance.*
- 4. The total number rejected since the 01/01/14.*
- 5. Of the number approved under "exceptional circumstances" please provide the applicants deregulation application to the Casework Planning Team.*

On 31 August 2016, my colleague Tim Hayward wrote to you requesting clarification regarding Q5 of your request, specifically whether the documents you required were those headed: "Application for Secretary of State consent to dispose of statutory allotment land". On 2 September 2016 you responded to Mr Hayward confirming that that was the case.

On 23 November 2016, Mr Hayward wrote to you confirming that the information requested was held by the Department, and providing all of that information, with the exception of personal data contained in the documents requested at Q5, which had been redacted under Regulation 12(3) of the EIR, by virtue of Regulation 13, as disclosure would breach one or more of the data protection principles in the Data Protection Act 1998 ("the DPA").

Request for review

On 3 October you wrote to the Department requesting an internal review of the handling of your request. On 5 December, you again wrote to the Department requesting an internal review, and an answer to the following questions:

1. *Why did I not receive a response after clarifying my request on the 02/09/16 and then had to chase again on the 20/09/16?*
2. *Why did your response on 22/09/16 provide no specific response time in line with 02/09/16 after I had clarified my request?*
3. *Why did I not receive a response chasing for a request update on the 28/09/16?*
4. *Why did I not receive a response to my Internal Review request on the 03/10/16 despite me stating that if not acknowledged I would pass a complaint to the Information Commissioners Office.*
5. *When responding to me on the 04/10/16 stating that you would respond "as soon as possible" why did you not acknowledge my Internal Review Request?*
6. *Why did you not respond to my subsequent email on the 4 October when I made further comment regarding the poor handling of my request and again not acknowledge my request for an Internal Review.*
7. *Why did the department only act when being directed to do so by the Information Commissioners Office on the 09/11/16.*

Appeal Officer's response

Firstly, I would like to apologise on behalf of the Department for the delay that you experienced with this request.

Regulation 5(2) of the EIR states the following:

Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.

Your request was received on 18 August, and the Department did not respond until 23 November, 68 working days after the date of receipt. Whilst Regulation 7 of the EIR does allow a public authority to take an extension to the deadline above, the Department did not rely upon this provision. Clearly, then, the Department did not meet the requirements of Regulation 5(2).

Turning now to the questions in your email of 5 December:

1. *Why did I not receive a response after clarifying my request on the 02/09/16 and then had to chase again on the 20/09/16?*
Please accept my apologies for this oversight, which was a result of human error.
2. *Why did your response on 22/09/16 provide no specific response time in line with 02/09/16 after I had clarified my request?*
It was not possible at that stage in the proceedings to estimate a date by which we could be certain to respond.

3. *Why did I not receive a response chasing for a request update on the 28/09/16?*

Please accept my apologies for this oversight, which was a result of human error.

4. *Why did I not receive a response to my Internal Review request on the 03/10/16 despite me stating that if not acknowledged I would pass a complaint to the Information Commissioner's Office.*

It is the Department's policy not to conduct formal internal reviews until the final response has been sent. This is to avoid such situations as an applicant requesting an internal review prior to receiving a response, on the basis of timeliness for instance, and then feeling the need to request an additional internal review on the basis of the application of exceptions. We feel that it is more appropriate to handle all concerns as part of a single internal review. I apologise that this was not communicated to you upon receipt of your initial request for a review.

5. *When responding to me on the 04/10/16 stating that you would respond "as soon as possible" why did you not acknowledge my Internal Review Request?*
Please see above.

6. *Why did you not respond to my subsequent email on the 4 October when I made further comment regarding the poor handling of my request and again not acknowledge my request for an Internal Review.*
Please see above.

7. *Why did the department only act when being directed to do so by the Information Commissioners Office on the 09/11/16.*

Departmental staff had been working hard to finalise the response to your request prior to receiving the communication from the Information Commissioner's Office to which you refer, and continued to do so after receipt. We are aware that, in this instance, we did not meet our usual high standards regarding timeliness.

Conclusion

Having reviewed this case, it is clear that the Department failed to meet the requirements of Regulation 5(2) of the EIR. Please accept my apologies for the delay you experienced in receiving a response to your request for information, and also for the lack of communication you received in respect of this, and your initial request for an internal review.

If you are unhappy with the outcome of this internal review, you can ask the independent Information Commissioner to investigate. The Information Commissioner can be contacted at email address xxxxxxxx@xxx.xxx.xx or use their online form at ico.org.uk/concerns or call them on 0303 123 1113.

Yours sincerely

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