

Our Ref: F0190527

Jonathan Rainey
request-577493-646e6c05@whatdotheyknow.com

If telephoning ask for:
Cara Everitt

12 June 2019

Dear Mr Rainey

REQUEST FOR INFORMATION

Thank you for your recent request, received by 13 May 2019.

We have applied the exemption under Section 39(2) of the Freedom of Information (Scotland) Act 2002 as we have determined that the information sought in your request is environmental information. We are therefore handling your request under the terms of the Environmental Information (Scotland) Regulations 2004 (EIRs). In this case the public interest in maintaining this exemption and in dealing with the request in line with the requirements of the EIRs outweighs any public interest in disclosing the information under FOISA.

For ease of reference, your request is replicated below together with our response.

How many flytipping incidents in the Dundee City Council were reported to the Scottish Environmental Protection Agency between 2010 and 2018? Also, how many illegal dumping incidents resulted in contaminated land within the said county?

Response

Please refer to the data below regarding the number of Fly tipping notifications received by SEPA on the national stop line Dumb Dumpers.

	2010	2011	2012	2013	2014	2015	2017	2018
Dundee City	18	14	17	8	7	6	4	15

Please note that SEPA does not hold the data for 2016 until July 2017 as we no longer have access to the system used at that time. SEPA does not hold this information therefore it is excepted under Regulation 10(4)(a) of the Environmental Information Regulations 2004. The text of which is reproduced below;

(4) A Scottish public authority may refuse to make environmental information available to the extent that:-

(a) it does not hold that information when an applicant's request is received.

The exception in regulation 10(4)(a) is subject to the public interest test in regulation 10(1)(b) of the EIRs. As SEPA does not hold the information in question there is no conceivable public interest in requiring that the information be made available.

SEPA does not hold records identifying any contaminated land sites as the result of fly tipping. SEPA does not hold this information therefore it is excepted under Regulation 10(4)(a) of the Environmental Information Regulations 2004. The text of which is reproduced below;

(4) *A Scottish public authority may refuse to make environmental information available to the extent that:-*

(a) *it does not hold that information when an applicant's request is received.*

The exception in regulation 10(4)(a) is subject to the public interest test in regulation 10(1)(b) of the EIRs. As SEPA does not hold the information in question there is no conceivable public interest in requiring that the information be made available.

Under the terms of Regulation 9 of the EIRs, SEPA has a duty to provide advice and assistance. We advise the contaminated land identified under our Contaminated Land records is as defined under Part IIA of the Environment Protection Act 1990.

The Local Authority is in most instances the lead regulator for Contaminated Land under Part IIA of the Environmental Protection Act 1990 and has the duty to identify Contaminated Land. The Local Authority should be contacted for further information. Under Part IIA of the Environmental Protection Act 1990, SEPA are notified by the Local Authority when sites are identified as Contaminated Land. There are no identifications of Contaminated Land sites as a result of fly tipping within the area.

If you are not satisfied with our response, you have up until 8 August 2019 to request a formal review from SEPA at:

Access to Information

SEPA

Strathallan House

Castle Business Park

Stirling

FK9 4TZ

Email: foi@sepa.org.uk

If you are still not satisfied, you can appeal to the Scottish Information Commissioner.

www.itspublicknowledge.info/appeal

Your unique reference number is F0190527. Please quote this in any future contact with us about your request.

If you have any queries in the meantime, please contact me.

Yours sincerely

A handwritten signature in black ink that reads "pp Julie O'Brien". The signature is written in a cursive, flowing style.

Cara Everitt

Access to Information Co-ordinator

What to expect when making a Request for Information

Each request for information, under The Environmental Information (Scotland) Regulations 2004 or the Freedom of Information (Scotland) Act 2002, is formally logged by the authority. The request falls within a process that has two internal stages carried out by the authority; a right of appeal to the Scottish Information Commissioner followed by an appeal to the Court of Session on a point of law only.

- Stage 1 – Request for information
- Stage 2 – Formal Review
- Stage 3 – Appeal for decision by Scottish Information Commissioner (OSIC)
- Stage 4 – Appeal to the Court of Session on a point of law only.

Each enquiry will have a unique Reference Number which should be quoted when you contact us.

How you will be kept informed

You will receive an acknowledgement for your request and Formal Review. We aim to reply to all enquiries promptly, within 20 working days. You will receive a response along with the requested information and/or an explanation regarding any withheld information. We may also contact you if we require clarification or if we are issuing a fees notice.

What happens once your enquiry has been responded to?

If you are not happy with the response or have failed to receive a response, you have the right to request a Formal Review from SEPA.

Guidance on your rights and how to ask for a review is on the Scottish Information Commissioner's website;

<http://itspublicknowledge.info/YourRights/Askingforareview.aspx>

We will ensure that all personal data is processed, recorded and retained in accordance with the requirements of the Data Protection Act 2018 throughout the handling of each request. You have a right to see information about yourself via submitting a Subject Access Request under the Data Protection Act 2018.

What to do if you are not happy with how your enquiry and review were handled

If you are unsatisfied with our Formal Review response or have failed to receive a response, you can then appeal to the Scottish Information Commissioner via the links below.

www.itspublicknowledge.info/appeal

<http://www.itspublicknowledge.info/home/ContactUs/ContactUs.aspx>

Should you wish to appeal against the Scottish Information Commissioner's decision, you have the right to appeal to the Court of Session on a point of law only. Any such appeal must be made within 42 days after the date of intimation of the decision.