

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

Decision notice

Date: 19 March 2012

Public Authority: Snowdonia National Park Authority
Address: National Park Office
Penrhyndeudraeth
Gwynedd
LL48 6LF

Decision (including any steps ordered)

1. The complainant requested a copy of a Section 106 Agreement for a particular property. Snowdonia National Park Authority ('the Authority') provided the information in Welsh. The complainant asked for the document to be translated into English. The Authority stated it did not hold the requested information in English and it was not required under the FOIA to translate information into alternative languages.
2. The Commissioner's decision is that the Authority should have handled the request under the EIR as opposed to the FOIA. The Commissioner's decision is that the Authority complied with regulation 5 of the EIR as it provided the recorded information held relevant to the request. The Commissioner is also satisfied that the Authority was under no obligation to translate the document into English, and as such regulation 6(1) of the EIR does not apply.
3. The Commissioner requires no steps to be taken.

Request and response

4. On 16 November 2011, the complainant wrote to the Authority and requested a copy of the Section 106 Agreement ('the Agreement') in place for a specified property. The Authority responded the same day and provided an electronic copy of the Agreement, which was in Welsh.
5. On 16 November 2011, the complainant contacted the Authority and asked for a copy of the Agreement in English. The Authority responded

the same day and advised that the Agreement had been produced in the Welsh language only, in accordance with the wishes of the other party to the Agreement.

6. On 21 December 2011 the complainant submitted a freedom of information request asking for an English copy of the Agreement.
7. The Authority responded on 25 January 2012 and confirmed that an English version of the document was not held as it was produced only in Welsh. The Authority also confirmed that the FOIA did not require it to translate documents into different languages in response to freedom of information requests.
8. On 25 January 2012 the complainant requested an internal review of the Authority's handling of the request.
9. The Authority provided the outcome of its internal review on 7 February 2012. It upheld its decision that an English version of the Agreement was not held and that the FOIA did not require it to translate information in order to respond to a request for information.

Scope of the case

10. The complainant contacted the Commissioner on 7 February 2012 to complain about the Authority's refusal to translate the Agreement into English.
11. The Commissioner considers this complaint to relate to the Authority's refusal to provide the requested information (the Agreement) in the form and format requested by the complainant (ie in English rather than Welsh). The Commissioner understands that there is no dispute as to whether the Authority holds a copy of the Agreement in English.

Reasons for decision

Correct Access Regime

12. The Commissioner has first considered whether the information requested by the complainant is environmental information as defined by the EIR.
13. A Section 106 agreement is a Planning Obligation authorised by section 106 of the Town and Country Planning Act 1990 (as amended). It is a

legal agreement between the Local Planning Authority and the applicant or developer, and any other parties with an interest in the land in question. These agreements are a way of delivering or addressing matters that are necessary to make a development acceptable to planning authorities. Section 106 agreements require the owner of the land to take specific actions in order to make an otherwise unacceptable development acceptable. These actions might include the construction of local facilities, designating a proportion of the proposed development as 'affordable housing', or an order to make payments which are used to improve services and infrastructure in the local community.

14. The Commissioner considers that information relating to planning and development falls within the definition of environmental information for the purposes of the regulations as provided in regulation 2(1)(c): information on "measures (including administrative measure), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a) and (b) as well as measures or activities designed to protect these elements". The planning and development of land is a measure or an activity that affects or is likely to affect the elements of the environment, and in particular land and landscape.
15. The request in this case relates to an agreement about conditions on planning applications. The Commissioner is satisfied that the information requested is environmental information and the correct access regime is the EIR.

Regulation 6 – form and format of information

16. Regulation 6(1) of the EIR states that where an applicant requests that information be made available in a particular form or format a public authority shall make it available in that way unless it is reasonable to make it available in another form or format.
17. Regulation 6(2)(a) provides that if information is not made available in the form or format requested, the public authority shall explain the reason for its decision as soon as possible and not later than 20 working days after the date of receipt of the request.
18. The Council has provided the information it holds relevant to the request. It advised the complainant that it only held a copy of the Agreement in Welsh as the document was produced in this language at the request of the other party to the Agreement. The Council stated that it was under no obligation to translate the document into English for the purpose of responding to a request for information under the FOIA. The

Council also stated that the document had been produced in accordance with its Welsh Language Scheme¹.

19. Regulation 6 of the EIR does not require public authorities to translate information into other languages in order to respond to a request for information. As a result, the Commissioner is satisfied that the Authority has provided the recorded information that is held relevant to the request and he is satisfied that the Council has complied with its obligations under regulations 5 and 6 of the EIR.
20. Nothing in the FOIA or the EIR overrides public authorities' duties under other statutory provisions. If a public authority is required under other legislation to produce information in an alternative language, the information which is held must be provided in the alternative language if this is requested. However, the Commissioner has no role in monitoring or assessing whether a public authority has complied with any other such statutory obligations.
21. The Welsh Language Act 1993 requires all public bodies in Wales to adopt and implement a Welsh Language Scheme which sets out how it will treat the Welsh and English languages equally when providing services for and communicating with the public. If the complainant does not believe that the Authority has acted in accordance with the provisions of its Welsh Language Scheme or its obligations under the Welsh Language Act 1993, he would need to take this matter up either with the Authority direct or with the Welsh Language Board who approve such schemes.

¹ <http://www.byig-wlb.org.uk/english/publications/publications/welsh%20language%20scheme%20-%20snowdonia%20national%20park%20authority.pdf>

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

Anne Jones
Assistant Commissioner
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF