

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

Date: 7 October 2024

Public Authority: Rural Payments Agency (Executive Agency of the Department for Environment, Food and Rural Affairs)

Address: PO Box 69
Reading
RG1 3YD

Decision (including any steps ordered)

1. The complainant has requested information from the Rural Payments Agency (RPA) about named Common Agricultural Policy (CAP) claimants. The RPA initially refused to confirm or deny whether it held this information but ultimately refused to provide the information, citing Regulation 12(5)(a) of the EIR – public safety.
2. The Commissioner's decision is that the RPA cited Regulation 12(5)(a) correctly and that the public interest lies in withholding the requested information. However, he has decided that the RPA breached Regulation 14(2) of the EIR by failing to issue a refusal notice to the complainant within 20 working days of receipt of the request.
3. The Commissioner does not require further steps.

Request and response

4. On 4 January 2024, the complainant wrote to the RPA and requested information in the following terms:

“Please consider this email a Freedom of Information Request.

1. For each of the CAP claimants, listed below, please provide any digital maps associated with claimants that outline the parcels of land for which payments are made by the Rural Payments Service (and associated devolved administrations).

2. Please indicate which parcels are for agricultural use and which parcels are for non-agricultural use.

3. Please could you also indicate which Land Use Codes are assigned to each parcel.

[redacted]

Please note that I do not ask for any information which identifies individuals or third parties to be disclosed and agree for such to be redacted within reason.”

5. On 5 February 2024 the RPA said that it would neither confirm nor deny (NCND) whether it held this information, citing regulation 12(6) of the EIR:

“Pursuant to Regulation 12(5)(a) of the EIR 2004, we exercise our discretion to neither confirm nor deny whether the information you have requested exists and is held by us. This is on the grounds that the confirmation or denial would involve the disclosure of information which would adversely affect the interests and the protection of public safety, which in this case, extends to the protection of safety of individuals.”

6. On 29 February 2024 the complainant asked for an internal review because they did not accept the exceptions used or that the public interest had been properly considered.
7. The RPA provided an internal review on 30 April 2024 in which it accepted that the refusal notice had been late. It also accepted that Regulation 12(6) had not been met as it was clear that some of the information was held. However, the RPA explained that Regulation 12(4)(a) – information not held - did apply to information about land in Wales and provided a link for requesting information about Welsh

payments and land data. No public interest test was conducted in line with the Commissioner's guidance. The review found that the exception under Regulation 12(5)(a), adverse effect on public safety, was engaged and that the information should be withheld.

Scope of the case

8. The complainant contacted the Commissioner on 2 July 2024 to complain about the way their request for information had been handled.
9. The Commissioner's considers the scope of this case is whether the RPA cited Regulation 12(5)(a) of the EIR correctly and any procedural issues arising.

Reasons for decision

Regulation 12(5)(a) – public safety

10. The information is environmental because it is information relating to "measures" affecting or likely to affect the land as set out in Regulation 2(1)(c) of the EIR.
11. Regulation 12(5)(a) allows a public authority to withhold information where disclosure would adversely affect international relations, defence, national security or public safety. In this case, it is public safety.
12. To demonstrate that disclosing the information would harm one of the interests in Regulation 12(5)(a), a public authority needs to -
 - a) identify a negative consequence (adverse effect) of the disclosure that is significant (more than trivial) and is relevant to the exception claimed;
 - b) show a link between the disclosure and the negative consequence, explaining how one thing would cause the other;
 - c) show that the harm is more likely than not to happen.
13. To engage Regulation 12(5)(a), a public authority must demonstrate that disclosing the requested information would have an adverse effect on public safety. This sets a high threshold; it has to be more probable than not that public safety would be affected if the information was released.
14. In its internal review, the RPA explained the following:

"In relation to digital maps and land use, we considered the following -

- material identifying individuals who might be targeted as a result of disclosure
- details about potential targets
- Information that would undermine the security of particular establishments, operations, or infrastructure."

15. It went on to explain that -

"Land is registered by RPA customers and linked to their unique Single Business Identifier (SBI) number for the purposes of making a claim under the schemes we administer. Customers can view the detailed, digital maps of the land registered to their business through the Rural Payments portal. These maps contain information about land linked to their individual business only."

16. Although the Commissioner has had sight of the supporting information the RPA provided to him, he does not propose to outline it here except in the general terms put forward by the RPA in its review:

"The review has taken into consideration the nature and type of the four businesses in England and has concluded that the security of these would be undermined by disclosing the detailed, individual, digital maps containing field boundaries, geographical features, land parcel reference numbers, land use data, access points, farm buildings and location of farm residences on the associated land. Furthermore, the review considers that disclosure into the public domain would increase the likelihood of these businesses being targeted by those opposing the nature of their business, posing a further risk of hurt or injury to employees and residents at these locations.

17. The complainant drew the Commissioner's attention to what "other information" was available online -

"...relating to the businesses that claim BPS [Basic Payment Scheme] along with a postcode, is already available via the CAP online database. The RPA cannot, therefore, argue that publishing maps would put businesses' safety at risk, if the information relating to their payments already exists in the CAP publicly available online database. "

The complainant went on to counter the RPA's "illogical" argument:

“that public safety is an issue in relation to BPS payments, when full details (including maps, names of beneficiaries and details of payments) relating to environmental stewardship grants (as opposed to BPS) are publicly available in MAGIC”.

They explained that MAGIC is a government website that shows all information relating to various types of environmental stewardship payments on a map - <https://magic.defra.gov.uk/MagicMap.aspx>

18. The complainant argued the following:

“If there is no public safety risk in publishing details of maps, funds, etc administered for environmental stewardship payments, then it follows that there is no risk in publishing BPS maps detailing parcels of land for which funding has been provided by the RPA.”

The Commissioner's view

19. Regulation 12(2) of the EIR requires a public authority to apply a presumption in favour of disclosure when relying on any of the regulation 12 exceptions.
20. The Commissioner has been provided with the withheld information. As indicated earlier in this decision notice, the Commissioner cannot give all his reasons for reaching this conclusion but he is satisfied that Regulation 12(5)(a) is engaged. He accepts that the likely adverse effect is more than trivial, that a causal link between disclosure and an adverse effect on public safety has been shown, and that the harm is more likely to happen than not.
21. Nevertheless, the Commissioner has gone on to consider whether it is in the public interest to disclose this information.

Public interest factors in favour of disclosure

22. The RPA -

“recognised the necessary consideration of the legitimate public interest in relation to the allocation of public funds, the businesses that are claiming those funds and the areas of land that are covered by those funds”.

It also accepted that there was public interest in how it manages the environment under the schemes it administers.

23. The RPA acknowledged that the EIR had a presumption in favour of disclosure and that it “must promote transparency and accountability in its actions and workings”.

24. In their internal review request the complainant stated that they did not believe that the RPA had fully considered the public interest. The complainant argued that the "BPS is ultimately funded by the public. Therefore, the public should be able to access details of how that money is spent, which businesses are claiming the funds and which areas of land are covered by those funds (as is the case with environmental stewardship payments in MAGIC)".

Public interest factors in favour of maintaining the exception

25. The RPA argued that none of the requested information was in the public domain and was not reasonably accessible by other means.
26. It detailed links to where similar information is published:

"where legislation permits, details of payments made by RPA to farmers and land owners are published by Defra at [Find farm and payment data - GOV.UK \(defra.gov.uk\)](https://www.gov.uk/government/collections/find-farm-and-payment-data). Crop maps of England are also published at [Crop Map of England \(CROME\) \(data.gov.uk\)](https://data.gov.uk/dataset/crop-map-of-england) which details 15 main crop types, grassland, and non-agricultural land covers, such as woodland, water bodies, fallow land and other non-agricultural land covers within England".

The RPA's view is that the public interest in the allocation of public funds and how the environment is managed by those funds is met by these websites. It does not consider that the disclosure of further information would be in the public interest.

27. In its submission to the Commissioner the RPA argued that because "details of payments and cropping information are routinely published" it suggested that there is a "lack of public interest in the level of detail requested". It reached the conclusion that maintaining the exception under Regulation 12(5)(a) regarding public safety outweighed the public interest in favour of disclosure.

Balance of the public interest

28. The Commissioner accepts the RPA's view that there is enough information in the public domain to satisfy the public interest for transparency and accountability. He is not persuaded that disclosing the withheld information would add significantly to the information already in the public domain and, as there is the potential for further risk to public safety, disclosure is not justified.

Procedural matters

29. The RPA provided its refusal notice late and breached section 14(2) of the EIR which states that any refusal under the EIR needs to be provided within twenty working days of receipt of the request.

Right of appeal

30. 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: 0203 936 8963

Fax: 0870 739 5836

Email: grc@justice.gov.uk

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

31. 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.
32. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Janine Gregory
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