

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

Date: 14 November 2024

Public Authority: Thames Water Utilities plc
Address: Clearwater Court
Vastern Road
Reading RG1 8DB

Decision (including any steps ordered)

1. The complainant has requested information about meetings between Thames Water and the Labour Party. Thames Water's position was that none of the information was environmental information and so it wasn't obliged to comply with the request. It subsequently acknowledged that some information was environmental information and disclosed this. Thames Water's position remains unchanged regarding the remaining information.
2. The Commissioner's decision is that the remaining information that falls within scope of the complainant's request isn't environmental information under regulation 2(1) of the EIR. In respect of the environmental information it disclosed, Thames Water didn't comply with regulation 5(2), which concerns timeliness.
3. It's not necessary for Thames Water to take any further steps.

Request and response

4. On 22 February 2024, the complainant wrote to Thames Water and requested information in the following terms:

"This is a request under the Environmental Information Regulations 2004, regarding the company's communication with the Labour Party. Please provide me with the following information.:

1. Between 1 July - 31 December 2023, how many times did representatives of your company have meetings (including virtual meetings) with the UK Labour Party?
2. Please provide me with copies of any memos, slides, presentations, reports, reviews or other documents that your company has provided to the Labour Party since 1 July 2023. NB: This should include documents that have been provided to Labour on your behalf by a third party, such as by a public affairs firm.
3. Please provide me with copies of all emails that the company has sent and received from any of the following Labour MPs since 01 July 2023: (a) Keir Starmer; (b) Steve Reed; (c) Ruth Jones; (d) Toby Perkins; (e) Emma Hardy."
5. Thames Water responded on 15 March 2024. It said that, as phrased, the request wasn't a request for environmental information, indicating that it wasn't therefore obliged to comply with the request.
6. The complainant requested an internal review on 15 March 2024. They said that, given the nature of Thames Water's role, any meetings with the Labour Party would inherently be about the environment and would therefore have to be covered by the EIR.
7. Thames Water provided a review on 8 May 2024. It confirmed that it considered the request was too broad and vague in scope and that not all information Thames Water holds is environmental information.
8. Thames Water wrote to the Commissioner in July 2024. It said that if the complainant were to re-submit their request, it would consider the request under the EIR because there had been a change of government. The Commissioner advised that a change of government isn't relevant to whether information is or isn't environmental information.
9. Thames Water reconsidered its response to the request and identified that some of the information – an appendix to a letter to Steve Reed MP – can be categorised as environmental information. That's because that information discusses the benefits to the water supply and the environment from Thames Water's business plan. On 12 November 2024 it confirmed to the Commissioner that it would send this information to the complainant that day. Thames Water maintains its position that the remaining information in scope isn't environmental information.

Reasons for decision

10. This reasoning is focussed on whether information that Thames Water holds that's relevant to the complainant's request is environmental information.
11. Regulation 2(1) of the EIR defines environmental information as being information **on** [the Commissioner's emphasis]:
 - (a) the state of the elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites including wetlands, coastal and marine areas, biological diversity and its components, including genetically modified organisms, and the interaction among these elements
 - (b) factors, such as substances, energy, noise, radiation or waste, including radioactive waste, emissions, discharges and other releases into the environment, affecting or likely to affect the elements of the environment referred to in (a)
 - (c) measures (including administrative measures), such as policies, legislation, plans, programmes, environmental agreements, and activities affecting or likely to affect the elements and factors referred to in (a)...as well as measures or activities designed to protect those elements
 - (d) reports on the implementation of environmental legislation
 - (e) cost-benefit and other economic analyses and assumptions used within the framework of the measures and activities referred to in (c); and
 - (f) the state of human health and safety, including the contamination of the food chain, where relevant, conditions of human life, cultural sites and built structures inasmuch as they are or may be affected by the state of the elements of the environment referred to in (a) or, through those elements, by any of the matters referred to in (b) and (c)
12. The relevant information in this case comprises:
 1. a letter to stakeholders about Thames Water's financial resilience
 2. an email from the Labour Party about setting up an 'Infrastructure Council'

3. an email with letter attached to Steve Reed (Labour MP) about Thames Water's 2025-30 business plan, which it had just submitted to Ofwat – Thames Water has disclosed the appendix to this letter; and
 4. a copy of a speech about the business plan made by Thames Water's CEO at an event hosted by Moody's, which Labour Party members attended
13. This information concerns broad financial and regulatory matters, and also some broad information about the setting up of an Infrastructure Council.
 14. In correspondence to the Commissioner, Thames Water noted that the Court of Justice of the EU had warned against stretching the definition of environmental information in the Glawishnig case (Case C-316/01, [2003] ECR 1-5995). This considered the definition of environmental information, and the court concluded that the definition "is not intended, however, to give a general and unlimited right of access to all information which has a connection, however minimal, with one of the environmental factors mentioned in Article 2(a)."
 15. Thames Water also noted that the Court of Appeal had considered 'measures' and how this should be interpreted in particular in Department for Business, Energy and Industrial Strategy v Information Commissioner and Henney [2017] EWCA Civ 844. It specifically confirmed that it was important to avoid an approach whereby information would be treated as falling within regulation 2(1)(c) if it had any connection with one of the environmental factors in regulation 2(1), however minimal.
 16. In his published guidance on environmental information, the Commissioner says,

"... sometimes information might not seem to be obviously environmental but could still fall under the definition. For example, financial information would be classed as environmental information if it related to the costs of redeveloping land and building a new leisure complex."
 17. However, the information in this case isn't related to a specific project, programme, service or site, or the cost and regulation of a specific project, programme, service or site. The first part of the request is for the number of times Thames Water met members of the Labour Party. Regarding the information within scope of the second and third parts, the stakeholder email concerns Thames Water's financial resilience, the letter (with covering email) and speech discuss Thames Water's

business plan broadly, and the purpose of the British Infrastructure Council – which the second email concerns - is to consider ways to boost infrastructure investment.

18. The Commissioner understands the complainant's reasoning; that because Thames Water is a water company, information about any communications and meetings it has – with the Labour Party in this case – must be environmental information.
19. However, the European Court of Justice and Court of Appeal have made it clear that the definition of 'environmental information' can't be stretched to cover all information an organisation may hold.
20. The information here concerns Thames Water's broad goals and strategies, its financial health and a national initiative (that again concerns financial matters) that it has been invited to join.
21. The Commissioner has considered the information and the purpose for which it was produced isn't convinced that it's information directly 'on' the environment, or on any measure with a direct environmental impact, as defined under regulation 2(1). He considers that the information is too many steps removed from the environment and decisions about the environment – it's a measure on a measure likely to affect the elements of the environment. And disclosing the information in this case wouldn't enable the public to be more informed or to participate in decision-making about the environment in any better way than currently.
22. The Commissioner's decision is therefore that the information being considered here isn't environmental information under regulation 2(1) of the EIR and Thames Water isn't obliged to comply with the request for it.
23. Regarding the information that is environmental information that Thames Water has disclosed, Thames Water didn't comply with regulation 5(2) of the EIR because it didn't make this information available within 20 working days of the request.

Right of appeal

24. 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

25. 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.
26. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Cressida Woodall
Senior Case Officer
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
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SK9 5AF