

Requests formulated in too general a manner (regulation 12(4)(c))

Environmental Information Regulations

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1. The Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities.
2. An overview of the main provisions of the EIR can be found in [The Guide to the Environmental Information Regulations](#).
3. This is part of a series of guidance, which goes into more detail than the Guide, to help public authorities to fully understand their obligations and to promote good practice.
4. This guidance explains to public authorities the meaning of the exception in regulation 12(4)(c) and how to apply it.

Overview

- Regulation 12(4)(c) allows a public authority to refuse to disclose environmental information if a request has been expressed in too general a manner **and** the authority has provided advice and assistance to the requester in accordance with regulation 9.
- The phrase “too general a manner” means a request that is unclear or non-specific, rather than one that is too large or extensive in coverage.
- When regulation 12(4)(c) applies, the authority must issue a formal refusal notice within 20 working days of receipt of the request. At the same time, the authority should ask the requester to clarify the meaning of the request, and provide “reasonable” advice and assistance to help him or her to do so.
- As soon as the requester provides clarification, a new time limit for response of 20 working days begins.
- The EIR code of practice gives additional but non-exhaustive guidance to authorities on the level of advice and assistance to provide to requesters. Authorities should take a proactive approach.
- It benefits both the authority and the requester to ensure that the authority fully understands the request.

What the EIR say

12(4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that –

(c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;

.....

5. Under regulation 5(1), public authorities are under a duty to make available environmental information that has been requested.
6. Regulation 12(4)(c) provides an exception to that duty “to the extent that”:
 - the request is too general; and
 - the authority has complied with its duty to provide advice and assistance under regulation 9.
7. When an authority receives a request that it thinks is formulated in too general a manner, it must issue a formal refusal notice specifying that it is refusing the request under regulation 12(4)(c) and at the same time provide advice and assistance to help the requester to submit a new, clarified request. The refusal notice must meet the requirements of regulation 14. Please refer to [The Guide to the Environmental Information Regulations](#).

The meaning of “too general a manner”

8. Obviously, determining whether a request has been framed in “too general a manner” will depend on the particular facts of each case. The words ‘too general’ refer to a request that is too unclear or non-specific for the authority to identify and locate the information requested, or a request that is ambiguous, and therefore could be interpreted in more than one way. When in doubt, the authority should seek clarification of the meaning of the request. Authorities may find the following principles to be useful.
9. The ICO recommends that public authorities:
 - read a request objectively and impartially;
 - don’t read into it any meaning which is not in the plain wording;
 - don’t assume that they know what is in the mind of the requester; and
 - seek clarification when a request is unclear or ambiguous, rather than attempting to guess what the requester wants.

10. Few complaints concerning regulation 12(4)(c) have come to the Information Commissioner for a decision, so we do not have many real examples to demonstrate how to apply the exception.

Example

In ICO Decision Notice [FER0267670](#) the complainant had requested the following from the Olympic Delivery Authority (ODA):

"All records and data concerning radiation monitoring, sampling and assaying, including any air filtering assaying devices, deployed on and near the Olympic Park Development Site, including the location of each and every device."

The ODA refused the request, relying on regulation 12(4)(b) (manifestly unreasonable) and regulation 12(4)(c) (too general a manner). The Commissioner decided that neither exception applied and ordered the authority either to disclose the information or to issue a new refusal notice relying on different exceptions:

"the Commissioner's view is that the request was itself clear. Indeed, the public authority did not ask the complainant for any clarification. Their concern appears to have been about the logistics of compiling the information requested rather than the generality of the request".

11. As can be seen from the example above, we consider that the term "too general a manner" only relates to requests for information that are too vague, unclear or non-specific. We distinguish this from requests that might be considered 'too big', relating to too extensive an amount of information, which may be covered by regulation 12(4)(b) ("manifestly unreasonable").

Neither confirm nor deny

12. The FOIA provision that an authority may in certain circumstances elect to neither confirm nor deny whether it holds information is not widely reflected in the EIR (only in regulation 12(5)(a)).

13. Therefore in the case of regulation 12(4)(c), technically a public authority would be required to state to the requester whether or not it holds the information. However, for this exception the Commissioner recognises that if a request is formulated in too general a manner, the authority won't be able to confirm or deny whether it holds the requested information, because it can't identify what the requester wants.

Compliance with regulation 9: the provision of advice and assistance

14. To engage regulation 12(4)(c), the information must comply with regulation 9.

9.—(1) A public authority shall provide advice and assistance, so far as it would be reasonable to expect the authority to do so, to applicants and prospective applicants.

(2) Where a public authority decides that an applicant has formulated a request in too general a manner, it shall—

- (a) ask the applicant as soon as possible and in any event no later than 20 working days after the date of receipt of the request, to provide more particulars in relation to the request; and
- (b) assist the applicant in providing those particulars.

(3) Where a code of practice has been made under regulation 16, and to the extent that a public authority conforms to that code in relation to the provision of advice and assistance in a particular case, it shall be taken to have complied with paragraph (1) in relation to that case.

(4) Where paragraph (2) applies, in respect of the provisions in paragraph (5), the date on which the further particulars are received by the public authority shall be treated as the date after which the period of 20 working days referred to in those provisions shall be calculated.

(5) The provisions referred to in paragraph (4) are —

- (a) regulation 5(2);
- (b) regulation 6(2)(a); and
- (c) regulation 14(2).

15. Regulation 9 requires a public authority to provide advice and assistance “so far as it would be reasonable to do so” when it receives a request that is formulated in too general a manner.
16. The following case demonstrates how the duty to provide advice and assistance is triggered by an unclear or ambiguous request:

Example

[Boddy v Information Commissioner & North Norfolk District Council \(EA/2007/0074, 23 June 2008\)](#)

“The Tribunal’s conclusions on this aspect of the appeal are that the correct approach to the law is that a request for information ought to be “taken at face value”, ie it should be read objectively. The Tribunal’s view is that the obligation in Regulation 9 has two aspects to it in this context. First, when a request is made a judgment needs to be made on whether it is reasonable to provide advice and assistance in light of the wording of that request. Secondly, if advice and assistance is required then the public authority must provide it to a reasonable extent. Therefore, if the request is unclear or ambiguous, then the obligation on the public authority to provide advice and assistance comes into play and the request should be clarified with the applicant for information”.

17. Recommendations as to the sort of assistance that might benefit requesters in this situation are contained in the EIR code of practice.

The EIR code of practice

18. The current EIR code of practice was issued under regulation 16 by the Secretary of State for DEFRA in 2005 to provide “guidance to public authorities as to the practice which it would, in the Secretary of State’s opinion, be desirable for

them to follow in connection with the discharge of their functions” under the EIR.

19. The following section from part III suggests how authorities could provide appropriate assistance if they receive an unclear request:

Extract from part III of the EIR code

10. Appropriate assistance might include:

- providing an outline of the different kinds of information that might meet the terms of the request;
- providing access to detailed catalogues and indexes, where these are available, to help the applicant ascertain the nature and extent of the information held by the authority; and
- providing a general response to the request setting out options for further information that could be provided on request
- advising the person that another person or agency (such as a Citizens Advice Bureau) may be able to assist them with the application or make the application on their behalf.

11. This list is not exhaustive and public authorities should be flexible in offering advice and assistance most appropriate to the circumstances of the applicant.

20. Of particular relevance to regulation 12(4)(c) is part of paragraph 15 of the code of practice:

“...Where a person finds it difficult to specify very clearly the nature of their request, the public authority should ensure that appropriate assistance is given to enable that person to make a request for information. For example, if a request is formulated in too general a manner the public authority shall, as soon as possible and not later than 20 working days after receipt of the request, ask the applicant to provide more particulars and shall assist them in doing so.”

Example

In this hypothetical example, Mrs J has made the following request to East Coastal Town Council: "please provide me with minutes of all the planning department's meetings attended by Mr John Smith and the planning documents concerning the Quays development from June, July or August this year".

The Council is not sure as to precisely which information Mrs J requires. It thinks that it could mean any of the following:

- minutes of all planning department meetings John Smith has ever attended and the planning documents concerning the Quays development drafted in June, July or August; or
- minutes of all planning department meetings John Smith attended in June, July or August, plus the planning documents concerning the Quays development drafted in June, July or August; or
- minutes of all planning department meetings John Smith ever attended concerning the Quays development, plus the planning documents concerning the Quays development drafted in June, July or August; or
- minutes of all planning department meetings John Smith attended concerning the Quays development in June, July or August plus the planning documents concerning the Quays development drafted in June, July or August.

The Council should go back to Mrs J within 20 working days and refuse the request, citing regulation 12(4)(c). At the same time, under regulation 9(2) it should ask her which documents she is interested in, explaining the options available to her and offering her advice and assistance to help her to clarify her request. One helpful, proactive approach could be to set out for her all the possible options outlined above.

21. Regulation 9(3) states that by conforming to the EIR code of practice an authority will have complied with regulation 9(1). However, the code also makes it clear in paragraph 9 that the list of steps it contains is not exhaustive: "including but not necessarily limited to the steps set out below". This means that, even if an authority has followed the steps suggested in the code, it could still be in breach of regulation 9 and in turn

of regulation 12(4)(c). The practical effect of this is that a public authority must decide what advice and assistance it would be reasonable to provide in the circumstances of each case. Public authorities should take a proactive approach and may sometimes need to go beyond the suggestions in the code.

Responses to requests for clarification

22. Once a public authority has refused a request under 12(4)(c) and provided reasonable advice and assistance, it does not need to take any further action unless it gets a response back from the requester.
23. If the requester comes back with clarification and the public authority is then able to identify the information that he or she wants, then it should deal with the clarified request as a new request and respond within a new 20 working day time limit.
24. Similarly, if the requester makes an entirely new request for different information then the public authority should just deal with this as a new request.
25. If the requester does not agree that the request was unclear or complains that the advice and assistance provided was inadequate, then the public authority will need to deal with the complaint about its handling of the original request through its internal review procedure. Sometimes a public authority will have both a new request and a complaint about its handling of the original request to deal with.
26. If the requester responds but is still unable to clarify what they want, even after the public authority has provided reasonable advice and assistance, then the public authority will have met its obligations under the EIR in relation to the original request and won't need to do anything more.

Time limits

The time limit for asking a requester to clarify a request

27. A public authority must ask the requester to clarify a request within 20 working days of receipt of that request.

The effect of regulation 9 on time limits in the EIR

28. Regulation 9(4) provides that if an authority has sought clarification of a request, this has an impact on the time limits in other regulations under the EIR:
- regulation 5(2) - the deadline for providing information in response to a request for information;
 - regulation 6(2)(a) - the deadline for explaining why the authority is not making information available in the form or format requested; and
 - regulation 14(2) - the deadline for issuing a formal refusal notice to the requester.
29. In all the above cases, the time limit is treated as being 20 days after the authority receives the clarification of the request. In effect, the clarified request is simply treated as a new request.

Benefits of seeking clarification of a request

30. It should be obvious to a public authority that if an EIR request appears insufficiently clear, it is in its own interest to seek clarification from the requester, to avoid wasting time and effort on answering a request it has struggled to understand. This will also benefit the requester, who then stands a greater chance of receiving a response which meets his or her needs.

Applying the public interest test under regulation 12(4)(c)

31. Like all EIR exceptions, regulation 12(4)(c) is subject to the public interest test. However, it is difficult to envisage how an authority might apply the public interest test, or to see how it could be in the public interest to provide information without first clarifying what the request is actually for. Of course, clarifying the request will cause some delay for the applicant, but the speed of providing that clarification is in his or her hands. Generally, if an authority is unsure about the meaning of a request, it is highly likely that the public interest in maintaining the regulation 12(4)(c) exception will outweigh the public interest in disclosing what could easily be the wrong information.

32. Please refer to the ICO's guidance [How exceptions and the public interest test work in the EIR](#).

Comparison with key FOIA provisions

33. Under FOIA there is no exemption for unclear requests. In practice a public authority will still need to provide advice and assistance to help a requester clarify an unclear request, but it won't need to issue a formal refusal notice.

Other considerations

34. When considering a request which appears too large, an authority might wish to consider the exception in regulation 12(4)(b) which applies where the request for information is "manifestly unreasonable". Please see earlier in this guidance, at paragraph 11.
35. If you need further information, additional guidance is available in the ICO's [Guidance index](#).

More information

36. This guidance has been developed drawing on ICO experience. Because of this, it may provide more detail on issues that are often referred to the Information Commissioner than on those we rarely see. The guidance will be reviewed and considered from time to time in line with new decisions of the Information Commissioner, Tribunals and courts.
37. It is a guide to our general recommended approach, although individual cases will always be decided on the basis of their particular circumstances.
38. If you need any more information about this or any other aspect of freedom of information, please [contact us: see our website www.ico.gov.uk](#).