

## **Environmental Information Regulations 2004 (EIR)**

### **Decision notice**

**Date:** 24 February 2015

**Public Authority:** Marine Management Organisation  
**Address:** Lancaster House  
Hampshire Court  
Newcastle Upon Tyne  
NE4 7YH

#### **Decision (including any steps ordered)**

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1. The complainant has requested from the Marine Management Organisation ("the MMO") a copy of the original HRA document relating to the license application for Devonport dredging and WB dumping.
2. The Commissioner's decision is that the MMO has provided the complainant with the original version of the HRA document.
3. The Commissioner requires the MMO to take no steps.

#### **Request and response**

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4. On 1 August 2014 the complainant wrote to the MMO and requested information in the following terms:

*"I understand that an HRA was conducted in respect of the most recent license application for Devonport dredging and WB dumping.*

*It did not get put on the old web site, nor the new one (from what I can see) and although I received an email with some documents that had not made it on the new site (thank you!) I have not received a copy of this"*

5. The MMO responded on 6 August 2014 and provided the complainant with a PDF version of the HRA document. The complainant returned to the MMO and explained:

*"As I have usually received original copies of the documents I had not thought there was a need to do so when I wrote to you last week and simply asked for the HRA. I am at a loss why it seems such an issue for you to simply send the document in its original format but if it helps, I am happy to make a new request, stipulating the form as electronic, and the format as Word (or alternative if this was not the original format). It does however seem extraordinary that I should have to make a new request given you could simply send it and save us all a lot of effort! That said, if you are unwilling to do so, please consider this a request for the HRA in electronic form and in the original format which was used when the document was created which I imagine was word".*

6. On 14 August 2014 the MMO responded and provided the complainant with a word version of the HRA document.
7. Later the same day the complainant contacted the MMO and asked it to carry out an internal review. She explained that the word version that had been sent to her was "*clearly not an original document*". The complainant wanted to be provided with a copy of the original HRA document so she could view the properties of the document which would demonstrate its authenticity.
8. The outcome of the internal review was sent to the complainant on 1 October 2014. The MMO considered that it had dealt with the request properly and in accordance with the statutory duties and obligations conferred by the EIR.
9. The complainant subsequently complained to the Commissioner about the MMO's handling of her request. During the Commissioner's investigation into this complaint, the MMO agreed to send the complainant a copy of the original HRA document. The Commissioner sent this to the complainant on 9 January 2015.

### **Scope of the case**

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10. Upon receipt of the original HRA document as detailed in the above paragraph, the complainant argued that the document that had been disclosed to her may not be the original.
11. The Commissioner has therefore had to consider whether the MMO holds any earlier versions of the HRA document.

## Reasons for decision

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12. Regulation 12(4)(a) provides that a public authority may refuse to disclose information where it does not hold that information when a request is received.
13. Where there is a difference between the amount of relevant information identified by a public authority and the amount of relevant information that the complainant believes may be held, the Commissioner, following the lead of a number of First-tier Tribunal decisions, applies the civil standard of proof, the balance of probabilities. The Commissioner must decide whether on the balance of probabilities the public authority holds (or held at the time of the request) any information which falls within the scope of the request.
14. The complainant has argued that the MMO may hold an earlier version of the HRA document which has not been provided to her.
15. To support her view that another version of the HRA document was held, the complainant referred the Commissioner to a response she had received from the MMO in relation to a different information request. The response included a print screen of the HRA document which was titled 'Devonport.LSE.doc'. The HRA document that was sent to the complainant in response to the request under consideration in this decision notice was titled 'Devonport.LSE.DOC.DOC'. She therefore had concerns as to whether she had actually received the original HRA document.
16. The Commissioner returned to the MMO and asked it to carry out searches to determine whether any other versions of the HRA document were held.
17. The MMO explained that it had contacted the Head of Inshore Marine Licensing (the department responsible for the creation of the HRA) to carry out a number of searches in order to determine whether an earlier version of the HRA document existed. The searches were carried out on relevant caseworker's electronic folders, historical emails during and prior to the time of creation of the HRA document and the MMO's case management system. It explained that the case management system would be the most likely place any earlier versions of the HRA would be stored. The searches involved using relevant key words such as 'HRA', 'LSE' and 'AA'.
18. After conducting the searches, the MMO confirmed that it held no earlier versions of the HRA document.

19. Based on the submissions provided by the MMO, the Commissioner is satisfied that the MMO does not hold any earlier versions of the HRA document. He is further satisfied that the complainant has been provided with original word version of the HRA document as requested.

## Right of appeal

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20. 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: 0870 739 5836

Email: [GRC@hmcts.gsi.gov.uk](mailto:GRC@hmcts.gsi.gov.uk)

Website: [www.justice.gov.uk/tribunals/general-regulatory-chamber](http://www.justice.gov.uk/tribunals/general-regulatory-chamber)

21. 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.
22. 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 .....**

**Rachael Cragg**  
**Group Manager**  
**Information Commissioner's Office**  
**Wycliffe House**  
**Water Lane**  
**Wilmslow**  
**Cheshire**  
**SK9 5AF**