



Department
for Environment
Food & Rural Affairs

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www.defra.gov.uk

Simon Birkett, Clean Air in London
[REDACTED]

Our ref: RFI 6347
Date: 22 July 2014

Dear Mr Birkett,

INTERNAL REVIEW: CONCENTRATIONS OF AIR POLLUTANTS IN LONDON

Thank you for your email of 23 March, requesting an internal review of Defra's refusal to disclose data on air pollutants at 187 locations in London in 2012. Your internal review was handled under the Environmental Information Regulations (EIRs).

Your case has been reviewed by the Information Standards Team within Defra in discussion with colleagues who handled your original request. The review has found that the information you originally requested was incorrectly withheld under the exception in Regulation 6(1)(b), which refers to information which is already publicly available. Although there is information online, it cannot be easily interrogated to produce the information that you requested. I would like to apologise for the error with the application of the exception in relation to your request.

Your original request was for: "the annual mean nitrogen dioxide (NO₂) and particulate matter concentrations (PM_{2.5} and PM₁₀) at each of those 187 locations in 2012." Further examination of your request for information showed that, although we could supply the grid square/road link data, this does not provide you with the analysis of the areas that you have highlighted. We can only report the values for the 1km grid square and road links that contains each of the 187 locations, however as each of the location polygons are differing sizes/shapes they do not all fall within a single square on our modelling scale and road links do not always match up. This is partly because the King's College London, on behalf of the Greater London Authority (GLA), and not Defra, carried out the analysis using a 20m and not a 1km grid square. Therefore any data that we provide may not match the areas that you have provided, and if the polygon covered two or more grid squares we would have to make a careful judgement about distribution.

Bearing in mind the above, the review has found that the exception in Regulation 12(4)(a) applies, which relates to information that is not held at the time of the request. Although it may be possible to analyse the data that we hold to work out roughly the areas that you have specified, as mentioned above, a lot of this work would involve careful judgement calls as to what was covered, as we did not carry out the original analysis, and it was not carried out on the same system. I would like to refer you to the [Information Commissioner's guidance](#) on this exception, which explains that, where there is a high level of skill and judgement required to answer a request the information is therefore not held under the EIRs.

Regulation 12(4)(a) is a qualified exception, which usually means that a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. Although the Information Commissioner, who is the independent



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regulator for requests made under the EIRs, takes the view that a public interest test in cases where the information is not held would serve no useful purpose, we have considered this matter. We have concluded that it is not in the public interest for Defra to hold or seek to secure this information because, although it may be 'environmental information', it is not necessary or relevant for the fulfilment of Defra's functions.

In your request for an internal review you reworded your request for information, and have instead asked for: "I am writing to request an internal review of your decision not to release the precise (i.e. to one decimal place) highest concentrations in 2012 for the different air pollutants requested for road links at or closest to the 187 locations in London for which I provided precise grid references."

Your original requests asked for concentrations for the polygons (i.e. the 187 locations), whereas your reworded request asks for concentrations closest to the grid references. This does not require the same level of judgement (although there is still some judgement over where the nearest location is to the grid reference), and so the information is held for the purposes of the EIRs (although because of the different modelling used by GLA this data may not be comparable to the locations).

A copy of the information that fall within the scope of your review request is enclosed with this letter. Please note that we only model the major road links, and so some of the nearest locations are up to 100m away from the grid references that you supplied, and anything over 50m is not representative of the location. The distance to the nearest road link is shown in column H of the separate document. If you would prefer to have the information as initially requested then I would recommend that you contact the GLA (please see the attached Annex A with a contribution from GLA and their contact details).

Where it appears to the requestor that the public authority has not complied properly with the requirements of the EIRs, Regulation 11(4) requires a public authority, to review its original decision within a maximum period of 40 working days. Your original request for a review was received on 23 March, and the 40th working day was 21 May, and so the EIRs have been breached.

I should also like to apologise for the length of time that it has taken us to review your case. As previously explained, this was due to other work pressures and staff absences in the review team. It is not our practice to take longer than absolutely necessary to review our decisions. Regrettably we have not reached those standards in this case. We therefore uphold this procedural aspect of your complaint in full.

I hope that this letter and annex answers your complaint satisfactorily. However, if you remain dissatisfied, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Please also see - <http://www.ico.gov.uk/complaints.aspx>

Yours sincerely,

Via email

Mike Kaye
Head of Information Standards

Annex A - contribution from GLA

The focus areas are available as a GIS file here -

<http://data.london.gov.uk/datastore/package/air-quality-focus-areas>.

The 20m concentrations from the LAEI 2010 as ASCII files (can be converted into GIS files) are in the file "3 Concentration" here -

<http://data.london.gov.uk/datastore/package/london-atmospheric-emissions-inventory-2010>.

They are also available as csv files here <http://www.cleanerairforlondon.org.uk/londons-air/air-quality-data/london-emissions-laei/laei-air-quality-data>

These can be combined using a GIS software package to get the answers you require.

If you need further information then please contact foi@tfl.gov.uk or mayor@london.gov.uk