

## **The Executive Committee**

### **Access to Information – twelve months on**

**Cover note by Phil Newby, Director**

1. This paper sets out a brief summary on the impact on English Nature of the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIRs) twelve months after they came fully into effect.
2. This paper was requested by the Executive Committee in January after a discussion over Complaints and Freedom of Information requests for the period to December 2005.
3. The Executive Committee is invited to:
  - a) **discuss** the four learning points; and
  - b) **advise** if they should be developed into a short guidance note to Managers or used by the relevant professionals to shape our on-going work.

## **The Executive Committee**

### **Access to Information – twelve months on**

**Paper by Darren Green, Corporate Data Manager**

#### **1. Executive summary**

- 1.1 This brief report looks at the impact on English Nature of the Freedom of Information Act (FOIA) and the Environmental Information Regulations (EIRs) twelve months after they came fully into effect.
- 1.2 The first year of implementation has gone well, with no serious problems, and the number and complexity of the requests were broadly in line with what had been expected. Whilst we have a long-standing policy of being as open as possible, the advent of this legislation does represent a cultural change and has not been ‘business as usual’.
- 1.3 A number of practical questions and issues have been revealed. Some of these are likely to be resolved as staff gain experience and confidence as they become more accustomed to handling requests. Others are potentially longer term problems that may require specific guidance and/or additional training.
- 1.4 A key learning point is that individuals need to capture documents into the official record keeping system and to manage email accounts and hard drives, to prevent difficulties when trying to find or access documents and records. A full list of learning points is presented, not only for English Nature, but also looking further ahead for *Natural England*.
- 1.5 Annex A provides a statistical summary of the requests received and our performance in 2005.

#### **2. Organisation and processes**

- 2.1 The process for handling requests appears to be clearly understood by all Teams, and this has improved as they received requests. It is generally felt that ‘normal business’ requests have not been affected and complex requests are finding their way to the Information Request Coordinators (IRCs).
- 2.2 All the Teams have the tracking and monitoring system based on the Casework Tracker. People have found this essential in keeping track of requests. In some cases, the main issue is getting staff to use the Tracker properly.

- 2.3 Most IRCs use the processes and are generally meeting timescales, although this has sometimes required significant effort (eg finding and assessing the information, they have needed to chase people for answers, obtain advice, or consult with a third party).

#### Awareness and training

- 2.4 As the year progressed and requests arrived staff became more aware of the legislation as it affected them. In some areas there still appears to be patchy awareness amongst managers and staff of the implications for them.
- 2.5 A programme of staff awareness raising was delivered in late 2004 and early 2005.

### **3. Complex requests received**

- 3.1 This represents a very small proportion of the total number of enquiries received by English Nature (17,482 to the Enquiry Service). We have received far more requests than the Countryside Agency and far fewer than Defra. There is no evidence to indicate whether the volume of requests is rising or falling, it seems to vary greatly from quarter to quarter. Thanks should be paid to those staff that have responded to requests and contributed to the excellent performance figures presented in Annex A
- 3.2 From the information obtained, it appears that the vast majority of requests have come from two broad categories of applicant: the commercial sector and individual members of the public who have a particular local interest. Smaller numbers of requests have been received from academia, other public bodies, NGOs (mainly local pressure groups), the media and English Nature staff.
- 3.3 Information has been requested on a wide range of subjects. Examples include: Details of all s15 management agreements; information related to dredging activities on the River Dee; information related to shellfisheries on the Solway; correspondence relating to ferry operations in the Solent; information on Thames Basin Heath SPA; correspondence relating to Lydd Airport; information relating to the sea defences in Suffolk; details of all enforcement actions taken. There is no discernible pattern to the requests. The Area Teams receiving the bulk of the requests, which reflects the local nature of the requests, or could imply and under recording of complex requests by National Teams.
- 3.4 Last year English Nature dealt with three requests from applicants for 'internal reviews' (appeals against non-disclosure of information). Two were reviewed in favour of the requester, the other in our favour. So far there have been no complaints or appeals to the Information Commissioner's Office. Two requests have been referred to Defra's Access to Information Team for advice. One request was referred to the government's central clearing house (managed by the Department for Constitutional Affairs).

### **4. Publication scheme**

- 4.1 Publication schemes are designed to act as 'route maps' to assist people to find information which is routinely published by public authorities. It is a legal

requirement for public authorities to have in place an approved publication scheme and to publish information in accordance with the commitments set out in the scheme.

- 4.2 A review of our current scheme the proposed Department of Constitutional Affairs 'Gold Standard' was undertaken this year. It presented few surprises and our scheme meets many of the recommendations. A revised version of the scheme has been published ([www.english-nature.org.uk/about/access](http://www.english-nature.org.uk/about/access)) which included many new classes of information. See issue 299 of The News (<http://intranet/reference/Corporate/Regulars/THENEWS/pdfs/news299.pdf>).

## **5. Guidance and advice**

- 5.1 IRCs are broadly satisfied with the official advice and guidance that is now available. The late publication of some of the central government guidance, especially relating to the EIRs, meant that a full set of guidance was not available until far later than we would have liked. This guidance is reviewed and updated periodically.
- 5.2 IDG using the Corporate Data Manager have provided a dedicated resource to advise IRCs and other staff on the handling of a wide range of individual requests for information. This has contributed significantly to our successful performance during the last year. Staff often say that they are glad they could consult a colleague about an issue and get some advice and support.
- 5.3 We have been leading with other countryside agencies, on guidance on the release of volunteered information and sensitive environmental features. This guidance has recently been accepted as specific sector guidance by the Information Commissioner's Office.

## **6. Learning Points**

- 6.1 A number of problems have arisen in relation to the handling of requests. In addressing these problems, some learning points are proposed:
- 6.2 **Organisational priority learning points**
- 6.2.1 Individuals should capture documents into the official record keeping system and to manage email accounts and hard drives, to prevent difficulties when trying to find or access documents and records. The Information Delivery Group (IDG) has specialist staff who can provide help and assistance, they can be contacted via the IDG helpdesk on 01733 455313. IDG have also produced comprehensive guidance on records, document, data and email management. These can be found on the IDG webpage on the intranet (<http://intranet/reference/Services/idg/index.cfm>).
- 6.2.2 Senior Managers and specialists need to identify up and coming issues and to anticipate demands. Individuals are encouraged to take pre-emptive action (eg publish information proactively), this is important when dealing with campaign requests or controversial issues of the day, eg species management issues.
- 6.2.3 Individuals need to rapidly assess a request, and in any event within 2 working days. Time is limited when responding to a request. Early consultation with third parties or

when seeking internal advice, is imperative to allow you to respond within our service standards.

- 6.2.4 We must be less risk adverse to the damage (perceived or not), to the relationships we have with third parties, when information regarding them has to be released. We are committed to promoting and actively developing, a culture of openness, transparency and customer focus. These principles are defined in our Access to Information Statement, ([www.english-nature.org.uk/about/pdf/accesstoinfostatement.pdf](http://www.english-nature.org.uk/about/pdf/accesstoinfostatement.pdf)). We have to recognise that in most cases third party information can and should be released, however, on occasion and when in the public interest we can withhold genuinely sensitive information.

### 6.3 Other specific learning points

- 6.3.1 During the last year, 20% of refusal notices were not cleared by the Corporate Data Manager. For us to achieve consistency when refusing to release information and to ensure that the exemptions/exceptions and the public interest are being applied correctly, all draft refusal notices have to be cleared by the Corporate Data Manager.
- 6.3.2 We must continue to gain more confidence in refusing (if appropriate) requests. Specifically when we receive requests for 'all' or 'everything you have on ....' We have to apply our judgement on what is reasonable for us to release. This avoids placing a substantial and unreasonable burden on our resources, which will divert us from the provisions of our public service and core functions.
- 6.3.3 We must know that we hold the requested information. This requires a long-term solution to enable us to manage our information assets effectively. We need to implement an electronic document and records management system and an automatic email archive for effective record and information management. It is an important information system enhancement that we and *Natural England* needs to consider as a priority.

## 7. Issues for *Natural England*

- 7.1 In addition to the some of the learning points above, the following are recommendations for *Natural England*.
  - 7.1.1 We must continue to proactively disseminate information we hold in line with legislative requirements. Senior managers should ensure new projects are developed with openness and transparency as a fundamental principle.
  - 7.1.2 Loss of knowledge on where and how information is stored. This is a particular risk for historical information. This could come from loss of staff resource or estate changes. This has been partially identified as a risk on the *Natural England* risk register for HR, IT and Finance, but not for other staff.
  - 7.1.3 *Natural England* will be a larger and more diverse organisation. It will have a higher public and media profile. Requests should be anticipated on major issues like, agri-environment schemes, wildlife management, open access land, SSSI management, planning and the formation of *Natural England*.

- 7.1.4 In *Natural England* there will be a need for the creation of a support network of local information coordinators, within the new structure. The Knowledge and Information System (KIS) project has identified that this and other similar support networks are critical to securing the correct advice, to provide support for colleagues and to promote the right culture.
- 7.2 English Nature's Corporate Data Manager is the lead for the *Natural England* KIS Access to Information project and is working with our partners to ensure that we are adequately equipped to comply with the legislation.

## Annex A

English Nature's Access to Information statistics for 2005		
No of complex requests received	243	
No of completed requests	243	100%
No of requests processed under the Environmental Information Regulations	223	91%
No of requests processed under the Freedom of Information Act	16	7%
No of requests processed under the Data Protection Act	4	2%
Time as recorded for 216 requests (90%) spent answering Access to Information requests	624 hrs	87.3 days
No of Requests meeting 15 day service standard deadline	218	90%
No of Requests meeting 20 day legal deadline	230	95%
No of Requests meeting all deadlines	238	98%
No of Requests meeting no deadlines	5	2%
No of Requests granted in full	200	82%
No of Requests partially refused	22	9%
No of Requests refused using exceptions/exemptions	9	4%
No of Requests refused as we did not hold the information or no further information was provided by the requester for us to complete the request	12	5%
No of Requests by businesses	99	41%
No of Requests by the public	92	38%
No of Requests by academics	19	8%
No of Requests by other public bodies, NGOs (mainly local pressure groups), the media and politicians	33	13%
No of Requests internally internal reviewed (appealed)	3	1%

No of Requests by Team	
Cumbria	45
Thames and Chilterns	45
Cornwall & Isles of Scilly	19
Hampshire and Isle of Wight	14
Cheshire to Lancashire	12
Norfolk	12
Dorset, HRST, Humber to Pennines, North and East Yorkshire, Northumbria, SST and Sussex and Surrey	5-10
Devon, Eastern Area, Essex, Hertfordshire and London, FPST, Head Office, Hereford and Worcestershire, Kent, North Mercia Peak District and Derbyshire, PFMU, Somerset and Gloucestershire, Suffolk, TWT, IDG and Wiltshire	<5
Bedfordshire and Cambridgeshire, CBT, EIT, ERT and Maritime	0