

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

Date: 17 March 2025

Public Authority: Advanced Research and Invention Agency
Address: c /o Alan Turing Institute
The British Library
96 Euston Road
London
NW1 2DB

Decision (including any steps ordered)

1. The complainant submitted a request to the Advanced Research and Invention Agency (ARIA) seeking information about its "Scoping Our Planet" project. ARIA responded by stating that it did not consider the requested information to be "environmental information" as defined by the EIR albeit it did provide the complainant with some of the information falling within the scope of his request. Following the Commissioner's view that the requested information was "environmental information", ARIA disclosed the remaining information it held in the scope of the request, with the exception of a small portion of information withheld on the basis of regulations 12(5)(e) (commercial or industrial information) and 12(5)(f) (interests of the person who provided the information to the public authority) of the EIR.
2. The Commissioner's decision is that the redacted information is exempt from disclosure on the basis of 12(5)(e) of the EIR and that the public interest favours maintaining this exception. However, the Commissioner has concluded that ARIA breached regulation 5(2) of the EIR in not providing the complainant with the remainder of the information in the scope of his request within 20 working days of his request.

3. The Commissioner does not require further steps.

ARIA's status under the EIR

4. ARIA is an executive non-departmental public body, sponsored by the Department for Science, Innovation and Technology.
5. It is not a public authority for the purposes of Freedom of Information Act (FOIA).
6. However, ARIA is a public authority for the purpose of the EIR (an issue which is not in dispute in this case). Therefore, if ARIA receives a request for 'environmental information' as defined by the EIR, then it is obliged to comply with the requirements of that legislation when responding to the request.

Request and response

7. The complainant submitted the following request to ARIA on 5 August 2024:

"Please confirm whether the final award decisions have been taken for ARIA's Scoping Our Planet project.

<https://www.aria.org.uk/scoping-our-planet-opportunity-seeds/>

2. Please provide the names of each organisation which has been allocated money under ARIA's Scoping the Planet project.

For each grant/organisation, please also include

- a. The value of the grant
- b. A summary of the project
- c. The research outputs to be delivered

3. Please also state how many proposals were received in total for Scoping Our Planet."

8. ARIA responded on 29 August 2024 and explained that it had determined that the requested information did not fall within the scope of "environmental information" as defined by regulation 2(1) of the EIR.

ARIA noted that information about its contracts, grants and expenditure could be found on the transparency section of its website.¹

9. The complainant contacted ARIA on the same day and asked for an internal review of this decision. He argued that it was unclear from the response why ARIA did not think that the requested information fell within the definition of environmental information.
10. ARIA responded on 23 October 2024. It explained that at the time of the request the information sought was not publicly available but explained that:

“...we can now inform you that final award decisions have been taken for [ARIA’s Scoping Our Planet opportunity seeds](#). ARIA received a total of 140 applications, and you can find details of the successful applicants on our website [here](#), which contains a summary of their projects and research outputs. Please also find below a table containing a list of counterparties, with details of the value of the award.”²

11. However, ARIA explained that it remained of the view that the requested information did not fall within the definition of regulation 2(1) of the EIR.

Scope of the case

12. The complainant contacted the Commissioner on 29 November 2024 in order to complain about ARIA’s handling of his request. He raised the following grounds of complaint:
 - ARIA had not provided him with access to all of the information sought by his request as this did not include “the research outputs to be delivered”.
 - Furthermore, the complainant argued that all of the information sought by his request fell within the definition of ‘environmental information’ contained at regulation 2(1) of the EIR. Therefore such information should have been provided to him - under the EIR - within 20 working days of his request.

¹ <https://www.aria.org.uk/about-aria/reporting-and-policies>

² The table listed the awards given to six organisations.

- In his view, ARIA's delay in providing the information – to the extent to which this has been disclosed – constituted a breach of regulation 5 of the EIR.
13. During the course of the Commissioner's investigation, following his confirmation to ARIA that in his view the requested information was environmental information for the purposes of the EIR, on 18 February 2025 ARIA provided the complainant with a copy of the research outputs falling within the scope of his request. This consisted of the research outputs for 11 organisations. The only exception to this was some information regarding two applicant's projects which ARIA explained was considered to be exempt from disclosure under the EIR on the basis of regulations 12(5)(e) and 12(5)(f) of the EIR.
 14. Following this disclosure, the Commissioner sought clarification from ARIA in respect of the value of grants awarded to the parties which were not listed in its disclosure to the complainant of 23 October 2024. That letter contained details of six awards, but the research outputs provided to the complainant on 18 February 2025 concerned 11 organisations.
 15. ARIA explained that the level of award in respect of the five further applicants had not been included in the previous release of information to the complainant as the agreements had (at that point) not yet been signed or were only very recently signed. ARIA explained that the additional relevant information was published on its website in January 2025. It also provided this information directly to the complainant on 27 February 2025.
 16. The scope of this decision notice is therefore to consider whether the information redacted from two of the research outputs is exempt from disclosure on the basis of the exceptions cited and whether ARIA complied with the obligations of regulation 5 of the EIR when responding to this request.

Reasons for decision

Is the requested information environmental?

17. Regulation 2(1) of the EIR defines environmental information as being information on:
 - (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);
18. The information in this case concerns ARIA's "Scoping our Planet" project. In this Commissioner's view this is a 'plan' or 'programme' for the purposes of regulation 2(1)(c).
19. In considering the phrase 'likely to affect', the Commissioner's guidance explains that:
- '[this] means there is a likelihood the elements of the environment, or factors such as those listed in regulation 2(1)(b), would be affected if the measure went ahead. This likelihood does not have to be more probable than not, but does have to be real and significant and substantially more than remote.'³
20. With regard to how the "Scoping our Planet" project is likely to affect the elements or factors, in the Commissioner's view a direct link can be drawn between the funding provided to the parties, their research outputs, how such research will provide better climate monitoring, which will then in turn lead to behavioural change designed to reduce the

³ <https://ico.org.uk/for-organisations/foi/freedom-of-information-and-environmental-information-regulations/regulation-2-1-what-is-environmental-information/#eir8>

impacts on the Earth's climate. It is these behavioural changes that in the Commissioner's view will have a real and significant affect on the elements and factors set out in regulations 2(1)(a) and 2(1)(b) of the EIR.

21. Whilst there are a number of steps between the "Scoping the Planet" project itself and then a likely impact on the elements and factors of the environment, in the Commissioner's view these links are not so implausible as to make the likely impact on the elements and factors one that is remote.
22. Furthermore, the Commissioner notes that the link between the Scoping the Planet project and a direct impact on the environment would also appear to accord with information about the project on ARIA's website:

"Backed by £81m, this programme combines expertise in observation and modelling with innovative sensing systems, to develop a proof-of-concept for an early warning system for climate. By confidently predicting when a system will tip, what the consequences may be, and how quickly that change may unfold, we'll equip society with the information it needs to build resilience and accelerate proactive climate mitigation."⁴

Regulation 12(5)(e) – confidentiality of commercial or industrial information

23. Regulation 12(5)(e) provides an exception to the extent that disclosure of the information in question would adversely affect:

'the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest'

24. The wording of the exception sets out a number of tests or conditions that must be met before the exception can be engaged, namely:
 - Is the information commercial or industrial in nature?
 - Is the information subject to confidentiality provided by law?
 - Is this confidentiality provided to protect a legitimate economic interest?
 - Will the confidentiality be adversely affected by disclosure?

⁴ <https://www.aria.org.uk/opportunity-spaces/scoping-our-planet>

25. The Commissioner has considered each in turn below.

Is the withheld information commercial or industrial in nature?

26. The Commissioner considers that for information to be commercial or industrial in nature, it will need to relate to a commercial activity of either the public authority concerned or a third party.
27. ARIA argued that the information is commercial in nature as the research outputs contain information about the delivery of a research project / design of innovative products intended to be commercialised by the applicants and attract larger investments in the future.
28. The Commissioner agrees with this assessment and accepts that the information is commercial in nature.

Is the withheld information subject to confidentiality provided by law?

29. ARIA argued that confidentiality is provided by law as there are binding confidentiality clauses in agreements between ARIA and the applicants which applies to information regarding the operations, processes, product information, know-how, designs, and any information developed by the parties in the course of carrying out the activities.
30. In view of the above, the Commissioner is satisfied that the withheld information has the necessary quality of confidence as it is clearly not trivial nor in the public domain. In addition, given the nature of ARIA's agreements with the third parties in question he is satisfied that there is an obligation of confidence in respect of information which is considered to be commercially sensitive.

Is the confidentiality provided to protect a legitimate interest?

31. The First Tier Tribunal confirmed in *Elmbridge Borough Council v Information Commissioner and Gladedale Group Ltd EA/2010/01063* that, to satisfy this element of the test, disclosure of the confidential information would have to adversely affect a legitimate economic interest of the person the confidentiality is designed to protect. It is not enough that disclosure might cause some harm to an economic interest. The public authority needs to establish that, on the balance of probabilities, ie more probable than not, disclosure would cause some harm.
32. ARIA argued that the purpose of the confidentiality clauses in the grant agreements is to protect the innovative know-how proposed and developed by the applicants throughout the lifespan of the project activities. This includes protection for the applicant by exploitation from competitors who may seek to take advantage of its technological

proposals and put the applicants at a commercial disadvantage. It also supports ARIA's wider interest in protecting UK advancements in the environmental technology industry and securing its benefit to the UK economy.

33. With regard to the particular information which had been withheld in this case, ARIA provided the Commissioner with submissions - which referenced the content of the withheld information itself - to explain why such information would provide the parties' competitors with a particular insight into their projects, and in turn risked harming their commercial interests. ARIA also set out why for one of these parties disclosure of the redacted information risked harming their commercial interests by impacting on their commercial relations with partner organisations. ARIA explained that in reaching this position it had consulted the applicants and the Commissioner was provided with copies of these parties' submissions to ARIA setting out why they considered parts of their research outputs to be commercially sensitive.
34. The Commissioner has carefully considered the withheld information and taken into account ARIA's submissions having done so is satisfied that if this information was disclosed this would harm the commercial interests of the two applicants in question for the reasons set out above. The redacted information includes specific and technical details about the two organisations' projects. In view of this the Commissioner accepts that it is reasonable and logical to argue that disclosure of this information would provide competitor organisations with a particular insight into the approach taken by the two parties in question to their respective projects, which in turn would undermine their ability to commercialise their research. Furthermore, having considered the content of the information the Commissioner is persuaded that disclosure of this also risks directly impacting on one of the party's relationship with an external partner organisation and that such an impact also represents a clear risk to that applicant's commercial interests.

Will the confidentiality be adversely affected by disclosure?

35. Although this is a necessary element of the exception, once the first three elements are established the Commissioner considers that it is inevitable that this element will be satisfied. Disclosure of truly confidential information into the public domain would inevitably harm the confidential nature of that information by making it publicly available, and would also harm the legitimate economic or commercial interests that have already been identified.
36. The redacted information is therefore exempt from disclosure on the basis of regulation 12(5)(e).

Public interest test

37. Regulation 12(2) of the EIR requires a public authority to apply a presumption in favour of disclosure when relying on any of the regulation 12 exceptions.
38. ARIA acknowledged that there is public interest in transparency, but argued that in the circumstances of this case it was satisfied that the public interest favoured withholding the information.
39. In reaching this conclusion it explained that it had placed weight on the following factors.
40. Firstly, the value in the programme is very significant both to the applicant, the UK economy and the public at large.
41. Secondly, there is an inherent public interest in the prevention of adverse effects on the interests of the third party provider of information, and the principle of confidentiality.
42. Thirdly, transparency has already been achieved to a degree, through the proactive publication of creator project summaries into the public domain.
43. Fourthly, at this early stage of the research programmes, it is essential that the researchers have a safe space within which to scope and plan their novel and unique research activity.
44. Finally, ARIA emphasised that the information which had been withheld did not consist of the entirety of the applicants' research outputs; rather it had only redacted the information to the extent that the adverse effect arises. Therefore, ARIA argued that the essentials of the information provided in the disclosure is maintained and the withheld information does not significantly detract from the remaining content, but rather removes the more technical specifics.
45. The Commissioner agrees that there is public interest in ARIA being transparent about the projects which it is funding. As noted above, the value of the awards is significant - over £5m in total to the 11 applicants with the two projects whose information has been partially redacted receiving £499,256 (University of St Andrews) and £356,834 (Cranfield University) respectively. Disclosure of the redacted information would provide the public with a clearer understanding of the research outputs for these particular projects and in the Commissioner's view the public interest in this outcome should not be underestimated given the sums of money involved.

46. However, the Commissioner agrees that there is always some inherent public interest in maintaining commercial confidences. Third parties would be discouraged from confiding in public authorities if they did not have some assurances that confidences would be respected.
47. Furthermore, in the circumstances of this case the Commissioner also considers that there is a public interest in ensuring fairness of competition. In his view it would be against the public interest for an applicant's commercial interests to be harmed via disclosure of information it had submitted to ARIA in support of grant application.
48. In considering the balance of the public interest in this case, the Commissioner agrees with ARIA that it is relevant to take into account the range of information that has been disclosed about the research outputs. For the other nine applicants these have been disclosed in full, and for Cranfield University only minor redactions have been made. The Commissioner agrees that such a disclosure provides the public with a clear and broad understanding of the research outputs that applicants are to deliver and as a result goes a significant way to addressing the public interest in disclosure as identified above.
49. Therefore, whilst the Commissioner has been informed by the presumption in favour of disclosure, he is satisfied that, on balance the public interest favours maintaining the exception contained at regulation 12(5)(e) in respect of the withheld information.
50. In view of this decision the Commissioner has not considered ARIA's reliance on regulation 12(5)(f) of the EIR.

Procedural matters

Regulation 5(2) – time for compliance

51. Regulation 5(2) of the EIR states that:

“Information shall be made available under paragraph (1) as soon as possible and no later than 20 working days after the date of receipt of the request.”

52. The complainant submitted his request on 5 August 2024. As is clear from the above notice, ARIA did not provide the complainant with the information it held falling within the scope of his request (and which it was prepared to disclose) within 20 working days of the request and by failing to do so breached regulation 5(2) of the EIR.

Right of appeal

53. 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

54. 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.
55. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

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