

EIR Reg 5(1) – Request for information

Linda Bromley and Others v IC & the Environment Agency

EA/2006/0072

31st August 2007

Cases:

Facts

The Appellants requested that the Environment Agency (EA) disclose all the information it had relating to an informal flood bank near their homes. Some information was provided but the Appellants believed that the EA held information which it had not disclosed to them and was therefore in breach of EIR regulation 5(1). The IC had decided that the EA did not hold any information beyond what had been provided. In the course of preparing for the Appeal the EA located additional documents, which had not been disclosed previously.

Findings

The EA asserted that it had located all information covered by the original request. The Tribunal regarded many questions of fact to decide whether the EA had in fact located all the information. They considered each of a number of categories of documents identified by the Appellants against a number of factors including the quality of the public authority's initial analysis of the request, the scope of the search that it decided to make on the basis of that analysis and the rigour and efficiency with which the search had then been conducted.

It heard evidence from several members of the EA's staff about the time and effort expended on the searches carried out and was satisfied that the EA had been anxious to assist the Appellants and had carried out appropriate searches. Where information had been wrongly withheld the Tribunal was satisfied that this resulted from the sort of mistake that could understandably occur in a search across numerous sources. It decided, on a balance of probabilities, that the EA was not likely to be holding relevant information beyond that which had already been disclosed and that some of the Appellants' categories of material fell outside the scope of the original request.

Conclusion

The Tribunal held that the EA was not in possession of any further information that had not already been disclosed. No further direction needed to be given as the EA had satisfied its disclosure obligations.

Concluded on balance of probabilities that EA did not have information from 1960's and was likely that it was destroyed and found that their explanation for why they did not have documents which previously were held by Severn Trent. Accepted no notes made by employees who visited the barrier existed at time of request. Found no information held on other matters raised in the appeal and that some information fell outside the scope of the original request.