

daa cpt
Trí, An Fhaiche
Lárcheantar Aerfort Bhaile Átha Cliath
Aerfort Bhaile Átha Cliath
Sord, Contae Bhaile Átha Cliath
K67 X4X5

T: 353 1 944 1111
www.daa.ie

daa plc
Three, The Green
Dublin Airport Central
Dublin Airport
Swords, Co Dublin
K67 X4X5



Department of the Environment, Climate and Communications
29-31 Adelaide Rd
Saint Kevin's
Dublin
D02 X285

Date: 8th January 2024

Re: Public consultation on proposed amendments to the Access to Information on the Environment (AIE) Regulations 2007-2018

Dear Sir/ Madam,

We welcome the opportunity to respond to the public consultation on proposed amendments to the Access to Information on the Environment (AIE) Regulations 2007-2018. We have detailed our comments on the consultation document proposals below.

daa has experienced a large increase in AIE requests over the past number of years. We have dedicated significant human resources and invested in training across the organisation to ensure that we can respond to and address citizen's requests for information in accordance with the Regulations.

In addition to the increasing number of requests, we also regularly receive requests seeking very extensive amounts of records and documentation. AIE responses can require hundreds of hours of review time to complete. While daa makes every effort to make reports and environmental information available, over 50% of requests received seek to be provided with all emails related to specific topics in addition to documentation, reports, and data. We believe some aspects of these new draft regulations, particularly Part 2, will place a significant and unwarranted burden on relevant parties in order to comply with these increased obligations.

daa is currently making every effort to provide the public with access to our reports. However, we regularly receive requests for draft documents of completed reports, and we do not agree that the provision of multiple draft versions of documents is the intention of this legislation. This is of particular concern where a finalised version has already been made publicly available. The ability of relevant parties to work on draft documents, to seek advice, opinions, and correct errors is essential in order to carry out duties. We ask for a better balance between providing environmental information and allowing the relevant parties to operate efficiently.

Part 2 – General Duties of Public Authorities

It is our opinion that the proposal to expand the statutory duties, as detailed, will place significant additional responsibility, cost, and work on the relevant parties. The suggested changes are too broad and leave much room for interpretation. We are concerned that without specific guidance on what the proposed “proactive duties to inform the public” refers to, then unrealistic expectations

could be set, on which we will be unable to deliver. We strongly request more clarity on this point, or its removal.

In addition, the draft Regulations propose to require public authorities to organise the environmental information that is held with a view to its active and systemic dissemination to the public by information technology or other electronic means. It is unclear what this would actually require us to do, as such we request clarity on this point. Should this require public authorities to process, store, tag and publish large amounts of information there will be cost, time and resource implications.

While not addressed in the draft Regulations, daa requests that training be provided to staff by the OCEI or DECC to support commercial semi-state bodies to better understand the regulations and duties, and allow for the highest level of compliance. This should be offered free of charge on an ongoing or regular basis, given the increasing demands to provide this service and the potential turnover of staff, in addition to increasing legislative requirements.

Part 3 – Requests for Environmental Information

(5)(1) (d) state the contact details, which may be an address for the receipt of electronic mail, of the applicant.

daa Comment: Under the current AIE Regulations, for an AIE request to be valid, it must state any relevant contact details of the requester. We do not agree with the amendment to the draft Regulations proposing that this requirement can be met by providing an email address.

Requiring applicants who are submitting an AIE request to include their contact details serves several important purposes. Contact details help verify the identity of the requester. Without this information, it becomes challenging for public bodies to confirm the authenticity of the request, potentially leading to anonymous, frivolous or malicious requests that waste resources and hinder legitimate access to information.

Without appropriate contact details, public bodies cannot communicate with applicants regarding their request. This might result in delays, misunderstandings, or the inability to clarify aspects of the request, which could lead to incorrect or incomplete information being provided.

Full contact details of the requester should be provided as part of the AIE, including name, address, phone number and email address.

(6) (2)(b) *Added* A public authority shall, in the performance of its functions under this Regulation, have regard to any timescale specified by the applicant.

daa Comment: We strongly disagree with this addition to the regulations which indicates that it will allow the applicant to specify a timescale for the response. We believe this sets unrealistic expectations for the applicant and is not practicable for the relevant parties as we are unlikely to be able to deliver on this. Over the past two years, 50% of AIEs requested ‘all emails’ related to the subject matter.

Due to the broad nature of the requests that we receive, we currently experience significant challenges in responding to requests within the one-month timeframe, and request that this be extended to 6 weeks for the initial response, in addition to the extension period.

(6) (3)(c) *Added* For the purposes of subparagraph (a), public authorities shall make all reasonable efforts to maintain environmental information held by, or for, the public authorities in

forms or formats that are readily reproducible and accessible by information technology or by other electronic means.

daa Comment: daa's principal activities include the operation and management of Dublin and Cork airports. The definition of environmental documentation under the AIE Regulations is very broad leading to challenges related to interpretation of what is considered environmental information. While we make environmental information publicly available on our website, we are a commercial organisation, and we must be able to protect our commercial interests. As such we request clarification on what is considered "reasonable efforts".

(6) (7) (a) *Added* Regulation 5(1), or (6) (8) (b) *Added*Where subparagraph (a) applies and a more specific request is made by the applicant, the request is treated for the purpose of paragraph (2)(a) as having been made on the date on which the more specific request was made.

daa Comment: daa supports this change of (6)(7)(a) Part 4- Refusals and appeals connected with requests for environmental information.

(4) *Removed highlighted* (9) (2) (a) is manifestly unreasonable **having regard to the volume or range of information sought,**

daa Comment: daa supports this change of (9)(2)(a) and proposes alternative reasons for refusal as set out below:

Is manifestly unreasonable having regard to;

- (i) the volume or range of information sought;
- (ii) other requests made by the same requestor within overlapping time periods;
- (iii) the frivolous or malicious nature of the request;
- (iv) it being one of a number of requests made by the same applicant or different applicants who are acting in concert and have made a pattern of requests;
- (v) the request constitutes an abuse of process, or;
- (vi) any other matter of relevance to the public authority subject to guidance by the relevant government department


(10) (6) (7) (a) *Added*Where the Commissioner has varied or annulled a decision of a public authority in accordance with paragraph (5)(b), the Commissioner may require the public authority to refund the appeal fee to the applicant where appropriate.

daa Comment: daa strongly disagrees with this decision. We believe this will drive an increase in referrals to OCEI should the ability to receive an OCEI appeal costs be permitted. The current cost is not prohibitive to applicants. daa requests that this provision be removed, and the current situation be retained.

We appreciate the opportunity to engage with you on this very important matter.

Kind regards,




Group Head of Sustainability