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From: [REDACTED]
Sent: Monday 8 January 2024 16:49:35 (UTC+00:00) Dublin, Edinburgh, Lisbon, London
To: DECC Aarhus
Subject: Public consultation on proposed amendments to the Access to Information on the Environment (AIE) Regulations 2007-2018

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There 2 points I wish to raise in this submission to the Public Consultation on Draft Access to Information on the Environment Regulations.

The first point relates to the following sections in the draft legislation:

‘PART 3 REQUESTS FOR ENVIRONMENTAL INFORMATION

Action on request

6(13) Where a decision is not notified to the applicant within the relevant period specified in paragraph (2)(a) or as the case may be, paragraph (2)(c), a decision refusing the request shall be deemed to have been made by the public authority concerned on the date of expiry of such period.

PART 4 REFUSALS AND APPEALS CONNECTED WITH REQUESTS FORENVIRONMENTAL INFORMATION

(9) (1) Where the applicant’s request has been refused under Regulation 6, in whole or in part, or deemed to have been refused in accordance with Regulation 6(13), the applicant may, not later than one month after the date of receipt of the decision to refuse, or as the case may be the date of the deemed refusal in accordance with Regulation 6(13), request the public authority to review the decision, in whole or in part.

9 (3)(b) Where a decision is not notified to the applicant within the time period mentioned in subparagraph (a), the decision, the subject of the internal review, is deemed to have been affirmed by the public authority concerned on the date of expiry of such period.’

My concern is that the absence of an absolute obligation to inform the applicant, in writing, about the refusal of a request for environmental information or about a decision in relation to an internal review, within the specified time frames will tend, in practice, to have a negative impact on people’s ability to request a review and/or lodge an appeal with the Commissioner for Environmental Information within the time allowed.

The second point relates to the removal of the ground for refusal of information on the basis that it ‘is manifestly unreasonable having regard to the volume or range of information sought’ and replacing it with the broader ground for refusal that it ‘is manifestly unreasonable’.

‘PART 4 REFUSALS AND APPEALS CONNECTED WITH REQUESTS FOR ENVIRONMENTAL INFORMATION

Grounds for refusal of environmental information

7. (1) (d) where the request—

(i) is manifestly unreasonable,’

In my opinion, the proposal to remove a restriction on this ground for refusal, in so far as it would no longer be limited by reference to the volume or range of information sought, is at odds with the principle set out in the Aarhus

Convention which stipulates, under Article 4, that grounds for refusal of access to environmental information shall be interpreted in a restrictive way and it also conflicts with DIRECTIVE 2003/4/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC, which states that that 'the disclosure of information should be the general rule and that public authorities should be permitted to refuse a request for environmental information in specific and clearly defined cases'

Yours Faithfully,

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