

[REDACTED]

From: EIR
Sent: 07 July 2025 11:09
To: [REDACTED]
Subject: [REDACTED]

Dear Requester

I write in response to your email sent on 9 June 2025, which has been received as a request for an internal review of Anglian Water's response to your original request for environmental information received on 12 May 2025. I have been asked to respond to you by the Legal Director of Anglian Water.

The internal review process requires me to undertake a fresh decision on your environmental information request sent 12 May 2025, based on all the available evidence that was relevant at the date of the request for information.

Environmental Information Request

On 12 May 2025 you requested information as follows:

"... Please supply the following information:

1. Who authorised the email dated 28/02/2025 (from Graham Mansfield and Mark, respectively) which claimed "Funding has now been confirmed for Buckingham WRC"? In this respect, I would like to see any information (written, visual, aural or electronic) which led to this email being written, agreed and then distributed.

2. Who authorised the Planning Report for applications 24/03426/AOP and 25/00705/PIP? In this respect, I would like to see any information (written, visual, aural or electronic) which led to this Report being agreed and submitted to Buckinghamshire Council.

I respectfully draw your attention to para 2, EIR which says that 'environmental information' includes any information on factors such as waste affecting or likely to affect elements of the environment (b), or any activities affecting or likely to affect elements of the environment (c).

Producing information which tells planning officers there is funding to upgrade a facility which has no capacity to treat sewage from a proposed development when there is no such funding planned or agreed is clearly an activity likely to affect the environment."

Response

Anglian Water responded on 9 June 2025 as follows:

Requested information is exempt from disclosure

"Thank you for your request for information about Buckingham Water Recycling Centre, which we received on 12 May 2025. Your request has been considered under the Environmental Information Regulations 2004.

1. Who authorised the email dated 28/02/2025 (from Graham Mansfield and Mark, respectively) which claimed "Funding has now been confirmed for Buckingham WRC"? In this respect, I would like to see any information (written, visual, aural or electronic) which led to this email being written, agreed and then distributed.

2. Who authorised the Planning Report for applications 24/03426/AOP and 25/00705/PIP? In this respect, I would like to see any information (written, visual, aural or electronic) which led to this Report being agreed and submitted to Buckinghamshire Council.

The information requested at items 1 and 2 by way of 'Who..?' is considered third-party personal data. Disclosure of names and associated opinions would contravene the data protection principles under data protection legislation.

The Data Protection Act 2018 defines personal data (section 3) as:

3(2) "Personal data" means any information relating to an identified or identifiable living individual.

3(3) "Identifiable living individual" means a living individual who can be identified, directly or indirectly, in particular by reference to –

- a. An identifier such as a name, an identification number, location data or an online identifier, Or
- b. One or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

In addition to the provisions of the Data Protection Act 2018 and UK GDPR, personal data is exempt from disclosure under the Environmental Information Regulations 2004 (EIR) by way of Regulation 12(3) and Regulation 13(1). The latter states:

'To the extent that the information requested includes personal data of which the applicant is not the data subject and as respects which either the first or second condition below is satisfied, a public authority shall not disclose the personal data'.

The 'first condition' referred to above is further explained in Regulation 13(2)(a):

'...in a case where the information falls within any of paragraphs (a) to (d) of the definition of 'data' in the Data Protection Act 2018, that the disclosure of the information to a member of the public otherwise than under these Regulations would contravene –

any of the data protection principles...'

It is the view of Anglian Water that the information requested is personal information and its disclosure would contravene the Data Protection Act 2018.

The information requested at items 1 and 2 for 'information (written, visual, aural or electronic)' relates to internal communications within Anglian Water. All internal discussions and dealings prior to the publication of Anglian Water's responses would be classed as 'internal communications' and, subject to the public interest test, are exempt from disclosure under EIR Regulation 12(4)(e).

We have carried out a public interest test in respect of this request and have determined that internal communications, deliberations and decision-making processes needs to be a private thinking space. Making such information publicly available would have a chilling, counter-productive effect on the work our employees are required to perform in this context for the benefit of the public in a more broader sense. It has been concluded that on this occasion the public interest falls on the side of maintaining the exemption."

Internal Review Request

On 9 June 2025, you submitted a further email which has been received and processed as a request for an internal review of our environmental information response:

“Thank you for your reply of 09/06/2025. I accept for now that the wording of my ‘by way of ‘Who..?’ request involves disclosing personal data and may fall foul of data protection principles, although I note this in effect allows officers of Anglian Water to function without public accountability. However, I would ask you to review your position on disclosing the internal communications I have asked for. ...”

“The second paragraph quoted above cites ‘the chilling effect argument’, and possibly the ‘safe space argument’. My understanding is that the ICO gives these two arguments little weight when internal deliberations leading to an act are complete i.e. it is no longer a live matter. In this case, I am asking to see the internal communications, redacted as necessary, which led to false information being published by Anglian Water. The internal deliberations relating to the production of this information are over. The documents have been produced and they have been published.

Anglian Water has acknowledged that information in the aforesaid email claiming that funding has now been agreed for an upgrade at the Buckingham Water Recycling Centre is false. This false information has been published to the great detriment of residents living in and around Buckingham. Indeed, a property directly neighbouring one of the proposed development sites already has sewage discharging from an Anglian Water manhole cover in their garden during high rainfall. This fact alone needs to be considered as part of any ‘public interest test’.

Therefore, the text of my follow-up request is as follows:

- 1. In respect of the email dated 28/02/2025 (from Graham Mansfield and Mark, respectively) which claimed “Funding has now been confirmed for Buckingham WRC”, I would like to see any information (written, visual, aural or electronic) which led to this email being written, agreed and then distributed.*
- 2. In respect of the Planning Report for applications 24/03426/AOP and 25/00705/PIP, I would like to see any information (written, visual, aural or electronic) which led to this Report being agreed and submitted to Buckinghamshire Council.*

Internal Review

You have requested an internal review of Anglian Water’s response to your information request. Please note that Anglian Water is not a public authority for the purposes of the Freedom of Information Act 2000, so my review and response has taken place under the provisions of the Environmental Information Regulations 2004.

Internal Review Outcome

In the internal review, I have carefully considered the request you made and the response provided. I find that:

1. The decision to withhold personal data pursuant to provisions of the Data Protection Act 2018 and UK GDPR, and regulation 13 of the Environmental Information Regulations 2004 EIR) is upheld.
2. The decision to refuse disclosure of information under the exception for internal communications (regulation 12 (4)(e) of EIR) is upheld.

The reason for withholding personal data is fully set out in Anglian Water’s response dated 9 June 2025.

As to internal communications, in recognition that public authorities should have the necessary space to think in private, regulation 12 of EIR provides:

Exceptions to the duty to disclose environmental information

- 12.—(1) Subject to paragraphs (2), (3) and (9), a public authority may refuse to disclose environmental information requested if—
- (a) an exception to disclosure applies under paragraphs (4) or (5); and
 - (b) in all the circumstances of the case, the public interest in maintaining the exception outweighs the public interest in disclosing the information.
- (2) A public authority shall apply a presumption in favour of disclosure.
- (3) To the extent that the information requested includes personal data of which the applicant is not the data subject, the personal data shall not be disclosed otherwise than in accordance with regulation 13.
- (4) For the purposes of paragraph (1)(a), a public authority may refuse to disclose information to the extent that—
- (a) it does not hold that information when an applicant's request is received;
 - (b) the request for information is manifestly unreasonable;
 - (c) the request for information is formulated in too general a manner and the public authority has complied with regulation 9;
 - (d) the request relates to material which is still in the course of completion, to unfinished documents or to incomplete data; or
 - (e) the request involves the disclosure of internal communications.

The information sought has been determined to be 'internal communications' and the exception is engaged. Public Authorities are then required to disclose such information unless they can demonstrate the balance of public interests favours the exception being maintained.

Anglian Water considers it is in the public interest to maintain the exception on this occasion because of the need to protect internal communications, deliberations and ongoing decision making processes around the funding of growth schemes in AMP8, particularly in the context of Ofwat's Financial Determination and Anglian Water's appeal to the Competition and Markets Authority. It serves the public for Anglian Water to have private, safe thinking space for these purposes and prevents a 'chilling effect' on the exchange of full and frank views and communications in the future. The ongoing and sensitive nature of funding for Anglian Water's entire growth portfolio, which is still live, means the public interest is best served by protecting unfettered internal communication and decision-making. In making this assessment, the presumption in favour of disclosure has also been taken into account.

I appreciate this is not the outcome you hoped for, but I hope you find this review useful. If you remain unhappy with Anglian Water's response to your environmental information request, you have the right to refer the matter to the Information Commissioner. The Information Commissioner can be contacted:

-online via <https://ico.org.uk/make-a-complaint/foi-and-eir-complaints/foi-and-eir-complaints/>

-in writing to 'Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF'.

Yours faithfully

EIR Internal Review Officer

Legal Services

Anglian Water Services Ltd