

Open Government Status:

FULLY OPEN

NuSAC/SCR/05/22

HEALTH AND SAFETY COMMISSION

NUCLEAR SAFETY ADVISORY COMMITTEE

SUBCOMMITTEE ON RESEARCH

27 September 2005

CONSEQUENCES OF FREEDOM OF INFORMATION ACT

Paper by HSE

Introduction

1. The last NuSAC SCR paper on Freedom of Information was NuSAC/SCR/00/8. One of the primary aims of the HSC Coordinated Programme (as stated in the DTI Guidelines) is to ensure that the results of the programme are disseminated as appropriate. This paper examines the effect of the new legislation which came into force in January 2005.

Past practice

2. Previous government policy on openness and freedom of information was contained in the Code of Practice on Access to Government Information. In the research area, information (research reports and parts of NuSAC and HSC committee papers) was typically withheld under exemption 13 (commercial confidentiality). Neither licensee nor HSE levy reports have been published. Requests for reports have been infrequent, mainly from consultancies or students. Reports have been released only with the agreement of the reactor licensees. This was in general freely granted for students. The response to commercial organisations was in general a request for a copy of the new reports that used the information from the supplied reports.

Use of HSE website

3. To prepare for the expectation of openness under the new legislation, NSD research unit has made greater use of the HSE website, as outlined in the previous SCR paper. This now contains, amongst other information:

- The open issues of the Nuclear Research Index, giving some indication of current projects
- The closed issues of the NRI, giving some indication of reports on completed work
- NuSAC SCR papers and minutes, giving the discussion on the programme
- A publication scheme, including research
- A list of levy reports (currently not maintained up to date due to lack of HSE resources).

4. Licensee reports are put on the HSE Intranet, to ensure their availability to the rest of HSE. The licensees have agreed to all levy reports over 2 years old being published on the HSE website This has yet to be implemented. There are resource and priority issues which need to be addressed.

FOI

5. Although under FOI legislation, there is a similar confidentiality exclusion, it is subject to a public interest test, and the requester can appeal to the Information Commissioner. HSE received in the first 6 months of 2005 an average of 650 requests each month. The number of cases going to internal review and appeal is slowly rising. NSD has received 68 requests in total since January 2005 (an average of 11 a month). Of these only one request logged as FOI has been related to research. This was from a commercial company which made government technical information available on a commercial subscription website in return for a small royalty to government. This is a copyright issue rather than a FOI issue, and after discussion with the reactor licensees the request was not granted. The head of the research unit has been nominated as a FOI decision maker, but his services have not yet been required in this context.

Security considerations

6. The Office of Civil Nuclear Security has published guidelines for security considerations on publishing. The only part potentially relevant to research is where research reports contain:

- details of the potential hazards or other information that could be used as a surrogate for evaluating the impact of a release, or details on the impacts of releases, or
- details of strengths and weaknesses of processes, structures and protection systems designed to contain, secure or secure material.

This information is not releasable if the type of detailed information would be of great use as an aid to a potential attacker for choosing targets and planning an operation. These guidelines have not yet led to any consequences for nuclear safety research reports.

Conclusions

7. The introduction of Freedom of Information legislation in 2005 has not yet led to any increase in requests for research information. Since the previous SCR paper on this topic in 2000, the steps outlined there to increase the amount of published information using the HSE website have been implemented, and agreement has been reached in addition to publish all HSE levy reports over 2 years old.

Action

8. The SCR is invited to note and comment on the information presented in this paper.

References

Freedom of Information Act 2000 see

<http://www.opsi.gov.uk/acts/acts2000/20000036.htm>

NuSAC/SCR/00/9, Freedom of Information Bill, Dissemination and knowledge management, see <http://www.hse.gov.uk/aboutus/hsc/iacs/nusac/papers/scr008.pdf>

OCNS, June 2004, Finding a balance, guidance on the sensitivity of nuclear and related information and its disclosure see

http://www.dti.gov.uk/energy/nuclear/safety/disclosure_guidance.pdf