



Department
for Environment
Food & Rural Affairs

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Date: 5 December 2013

REQUEST FOR INFORMATION: GUIDANCE ON FOIA/EIRS

Thank you for your request for information about guidance on handling FOIA/EIR requests, guidance on publishing FOIA/EIR releases and a copy of the latest round robin list, which we received on 8 November 2013.

As you know, we have handled your request under the Freedom of Information Act 2000 (FOIA). Following careful consideration, we have decided not to disclose some of this information.

I enclose the information which can be disclosed:

- a copy of the guidance on handling FOIA/EIRs request (in its entirety)
- a copy of the guidance on publishing FOIA/EIR releases (in its entirety)
- a copy of the Round Robin list that was circulated on the date we received your request (with part redacted)

With regard to the Round Robin list, we have decided that the personal details of requestors should be withheld under section 40(2) (third party personal data) of the FOIA as the information constitutes personal data relating to third parties. Section 40(2) of FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 1998 (DPA). We consider that disclosure of this information is likely to breach the first data protection principle in Schedule 1 to the DPA, which relates to the fair and lawful processing of personal data, in two ways. First, disclosure would not constitute 'fair' processing of the personal data, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 to the DPA. Therefore, we have concluded that this information is exempt from disclosure under section 40(2) of FOIA.

We have also redacted part of the Round Robin list under sections 23 and 24 of FOIA. In reliance on the exemptions from the duty to confirm or deny in sections 23(5) and 24(2) of



FOIA, which relate to bodies dealing with security matters and national security, I can neither confirm nor deny whether any additional information is held that is subject to the exemptions at section 23(1) or 24(1) of the Act. The exemption in section 23(5) is an absolute exemption and Defra is not required to consider whether the balance of the public interest favours maintaining the exemption. The exemption in section 24(2) is a qualified exemption and Defra has considered whether the public interest in maintaining the exemption outweighs the public interest in confirming whether or not the Department holds any further information. We recognise that there is a general public interest in openness in government because this increases public trust in and engagement with the government. These public interests have to be weighed against a very strong public interest in safeguarding national security. Confirming or denying whether there is or is not a national security interest could be exploited by individuals or organisations with consequent damage to national security. This interest in safeguarding national security could only be overridden in exceptional circumstances. I have determined that in all circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in confirming or denying that information is held beyond that covered by the above exemptions.

In keeping with the spirit and effect of FOIA, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on www.gov.uk together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

I attach Annex A, which explains the copyright that applies to the information being released to you.

I also attach Annex B giving contact details should you be unhappy with the service you have received.

If you have any queries about this letter, please contact me.

Yours sincerely

By e-mail

Guy Mawhinney

FOIA/EIRs Case Officer and Deputy Data Protection Officer

Annex A

Copyright

The information supplied to you continues to be protected by copyright. You are free to use it for your own purposes, including for private study and non-commercial research, and for any other purpose authorised by an exception in current copyright law. Documents (except photographs) can be also used in the UK without requiring permission for the purposes of news reporting. Any other re-use, for example commercial publication, would require the permission of the copyright holder.

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Annex B

Complaints

If you are unhappy with the service you have received in relation to your request you may make a complaint or appeal against our decision under section 17(7) of the FOIA or under regulation 18 of the EIRs, as applicable, within 40 working days of the date of this letter. Please write to Mike Kaye, Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: requestforinfo@defra.gsi.gov.uk) and he will arrange for an internal review of your case. Details of Defra's complaints procedure are on our [website](#).

If you are not content with the outcome of the internal review, section 50 of the FOIA and regulation 18 of the EIRs gives you the right to apply directly to the Information Commissioner for a decision. Please note that generally the Information Commissioner cannot make a decision unless you have first exhausted Defra's own complaints procedure. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF