



Department
for Environment
Food & Rural Affairs

T: 03459 33 55 77 or
08459 33 55 77
helpline@defra.gsi.gov.uk
www.gov.uk/defra

Our ref: RFI 7374

22 April 2015

Dear [REDACTED]

REQUEST FOR INFORMATION: THE WATERWAYS OMBUDSMAN

Thank you for your request for information, which we received 15 March 2015, for information relating to the 'Ombudsman issue' as mentioned in the meeting note of the 7 August CRT Grant Review Meeting, recorded both before and after the meeting. As you know, we have handled your request under the Freedom of Information Act 2000 (FOIA).

You requested information in the following terms:

"I refer to the CRT Grant Review Meeting on Thursday 7th August 2014 held at Nobel House room 104 - <https://canalrivertrust.org.uk/media/library/8903-defra-august-meeting-notes.pdf>

In particular, I refer to to *[sic]* part of the notes of that meeting -

'CRT updated that the Ombudsman issue is now being resolved'.

Please provide all recorded material held prior to the meeting regarding the 'Ombudsman issue'.

Please provide all recorded material subsequent to to *[sic]* meeting relating to resolution of the issue."

The 'Ombudsman issue' as referred to in the meeting note refers to anything affecting the Waterways Ombudsman as a result of the formation of the Canal & River Trust, and we have answered your request accordingly.

Following careful consideration, we have decided not to disclose some of the information that you have requested.

I enclose a copy of the information which can be disclosed, which consists of formal and informal notes from Canal & River Trust Grant Review Meetings, and email correspondence between Defra, DCLG and British Waterways.

Some of the information that you requested is being withheld as it falls under exemptions in section 35(1)(a) of the FOIA, which relates to the formation of government policy, and section 43(2), which relates to the disclosure of information that would, or would be likely



to, prejudice the commercial interest of any person. The information being withheld includes legal advice and commercially confidential information. Some names and contact details have also been withheld under section 40(2) of the FOIA.

In applying the exemptions at sections 35(1)(a) and 43(2) of the FOIA, we have had to balance the public interest in withholding the information against the public interest in disclosure.

We recognise that there is a public interest in disclosure of information concerning the Waterways Ombudsman, as waterway users have an interest in any changes to the status of the Ombudsman.

On the other hand, in respect of the application of the exemption at section 35(1)(a) of the FOIA, there is a strong public interest in withholding the information because it relates to confidential discussions between Defra and British Waterways.

Confidential discussions are important to policy development and there needs to be a space within which officials are able to discuss all policy options and delivery, and stakeholders can be confident that they are able to express views freely and frankly.

With regard to the application of the exemption at section 43(2) of the FOIA, there is a substantial public interest in protecting commercially sensitive information. Section 43(2) of the FOIA exempts information where disclosure would be likely to prejudice the commercial interests of any person. It is important that Defra's stakeholders are able to share commercially confidential information with Defra in confidence in order to inform discussions.

Therefore, we have concluded that, in all the circumstances of the case, the information should be withheld.

As mentioned above, we have also withheld names and contact details of individuals. Section 40(2) of the FOIA provides that personal data relating to other persons are exempt information if disclosure would breach the Data Protection Act 1998 (DPA).

We consider that names of individuals identified in the requested information are their personal data. As they are not in public facing roles or in senior positions they would not reasonably expect their names to be disclosed in relation to this report. We therefore believe that disclosure of this information (i.e. the individuals' names) 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, as disclosure would not constitute 'fair' processing of the personal data. Therefore, we have concluded that this information is exempt from disclosure under section 40(2) read in conjunction with section 40(3)(a)(i) of the FOIA.

Information disclosed in response to this FOIA request is releasable to the public. In keeping with the spirit and effect of the FOIA and the government's Transparency Agenda, this letter and the information disclosed to you may be placed on [GOV.UK](https://www.gov.uk), together with any related information that will provide a key to its wider context. No information identifying you will be placed on the GOV.UK website.

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,

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Information Rights Team

InformationRequests@defra.gsi.gov.uk

Annex A

Copyright

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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 within 40 working days of the date of this letter. Please write to [REDACTED] Head of Information Standards, Area 4D, Nobel House, 17 Smith Square, London, SW1P 3JR (email: InformationRequests@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 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