



Department
for Environment
Food & Rural Affairs

helpline@defra.gsi.gov.uk
www.defra.gov.uk

Our ref: RFI 5916
Date: 11th November 2013

Dear [REDACTED],

REQUEST FOR INFORMATION: DATA ON BADGERS INFECTED WITH TB

Thank you for your request for information about culled badgers infected with TB, which we received on 17th October. We have handled your request under the Environmental Information Regulations 2004 (EIRs).

The EIRs apply to requests for environmental information, which is a broad category of information defined in regulation 2 of the EIRs. Public authorities are required to handle requests for environmental information under the EIRs. They give similar access rights to the Freedom of Information Act 2000 (FOIA).

You asked: *'would Defra supply you with data and/or scientific evidence that substantiates the Secretary of State's comment that 'many of the badgers killed as part of the pilot badger cull, have been in a 'dreadful state', and in the final stages of dying from TB'.*

A sample of culled badgers was subjected to post mortem examination and any signs of illness or poor condition were noted as part of the procedure. The attached document outlines the post mortem procedure. TB infection is confirmed in badgers by following the standard procedure of culturing (isolating and growing) the causal organism, *Mycobacterium bovis*.

You should note that testing badger carcasses for TB was not undertaken on a routine basis during the pilot cull. Carcasses have been tested on occasion at the specific request of landowners when they are concerned if a culled badger appears to be in a poor state of health. As testing has not been completed, the final number of badgers found to be in poor health and carrying TB is not known at present.

Further to my comment above, you may wish to know that TB testing in culled badgers is not being undertaken as a routine procedure as high levels of TB were confirmed in badgers in the regions in which the cull areas are located during the Randomised Badger Cull Trial (RBCT). This has been confirmed by other research work carried out by independent scientists. A link to the report on the RBCT, which summarises the Trial's



results and which contains an accompanying literature review, is below. Pages 72 to 77 will be of particular interest:

http://archive.defra.gov.uk/foodfarm/farmanimal/diseases/atoz/tb/isg/report/final_report.pdf

I have also attached a link to an annex which was published as part of the 2010 consultation 'Bovine tuberculosis: the Government's approach to tackling the disease and consultation on a badger control policy'. The annex contains more information on badgers and TB:

<http://webarchive.nationalarchives.gov.uk/20110203030352/http://www.defra.gov.uk/corporate/consult/tb-control-measures/100915-tb-control-measures-annexa.pdf>

As the information you requested is being finalised, it is being withheld under the exceptions in regulations 12(4)(a) (information is not held when the applicant's request is received) and 12(4)(d) (material which is still in the course of completion, unfinished documents or incomplete data) of the EIRs.

The Regulations

Regulation 12(4)(a) relates to information which is not held at the time when an applicant's request is received. Regulation 12(4)(a) is a qualified exception, which usually means that a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. However, the Information Commissioner, who is the independent regulator for requests made under the EIRs, takes the view that a public interest test in cases where the information is not held would serve no useful purpose. Therefore, in line with the Information Commissioner's view, Defra has not conducted a public interest test in this case.

Regulation 12(4)(d) relates to material which is still in the course of completion, unfinished documents or incomplete data, and applies to the data from the pilot culls and the extensions which are still in the course of completion. As a result the data are still being collected and collated. Disclosing the incomplete data would not meet the purpose of your request which is to ascertain the numbers of badgers shot in cages and the number of diseased badgers recovered during the cull.

The Public Interest Test

Regulation 12(4)(d) requires the public authority in question to carry out a public interest test. There is a great deal of interest and strength of feeling around the badger control policy which includes identifying the numbers of badgers killed and their state of health. However, Defra has concluded that the public interest in withholding the information sought outweighs the public interest in its disclosure. Releasing information now before it has been finalised would only mislead and confuse the public which contradicts the principles behind freedom of information. It is logical to wait and it is in the public interest

to wait until all the information has been collected and summarised rather than release the information in a piecemeal fashion.

Defra has publicly committed¹ on numerous occasions to announcing that the report on the culls will be published by February 2014. This report will include data from the culls including post-mortem summaries. A report prepared by an independent expert panel reviewing the results from the cull will be published at the same time. This report will be submitted to Ministers to inform their decision on whether or not to roll-out culling across the country.

Defra recognises the strength of feeling around the badger control policy. However, in light of the argument above, Defra has concluded that, at this stage, when the information is still incomplete, the public interest in withholding the information sought outweighs the public interest in its disclosure. Therefore, we have concluded that in all the circumstances of the case, the information should be withheld.

I attach an annex giving contact details should you be unhappy with the service you have received.

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

Yours sincerely,

Defra TB Programme

Email: ccu.correspondence@defra.gsi.gov.uk

¹ <http://transparency.number10.gov.uk/business-plan/10/35>

Annex

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