



Department  
for Environment  
Food & Rural Affairs

Nobel House  
17 Smith Square  
London SW1P 3JR

T 08459 335577  
helpline@defra.gsi.gov.uk  
[www.defra.gov.uk](http://www.defra.gov.uk)

**Our ref:** RFI 6094

**Date:** 22 January 2014

Dear

**REQUEST FOR INFORMATION: NOTTINGHAMSHIRE WASTE INFRASTRUCTURE PROJECT**

Thank you for narrowing down your previous EIR request (ref: RFI 5922) to “relevant (Waste PFI related) e-mail messages and associated attachments sent/received between WIDP and Nottinghamshire County Council in the period from 20th May 2011 - 31st December 2011”.

As you know, we have handled this as a 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).

This information is provided in the attached document, *Correspondence.pdf*. You will see that we have withheld people’s personal contact details under the exception allowed by Regulation 13 (Personal data) of the EIRs. Regulation 13 provides an exception for information which is the personal data of any third party, where disclosure would breach any of the data protection principles contained in the Data Protection Act 1998 (“DPA”).

As regards the names of officials, this personal data is being withheld as the information falls under the exception in regulations 12(3) and 13(2)(a)(i) of the EIRs, which relate to personal data relating to third parties. Regulation 13(2)(a)(i) of the EIRs exempts from disclosure personal data relating to third parties where disclosure would breach the Data



Protection Act 1998 (DPA). In this case, we believe that disclosure of the information would breach the first data protection principle in Schedule 1 of the DPA in two ways. First, disclosure would not constitute 'fair' processing of the personal data and, second, disclosure would not satisfy any of the conditions for data processing set out in Schedule 2 of the DPA. In particular we do not consider that there is a legitimate interest in disclosure in this case. Release of names of junior officials poses a risk to the neutrality of the civil service, the names would add nothing to the public's understanding of this matter and the public authority's accountability does not require release of names. Consequently, we believe that regulations 12(3) and 13(2)(a) (i) of the EIRs exempt the information from disclosure.

We have also withheld documents under Regulations 12 (4) (d) and 12 (5) (e).

#### Regulation 12 (4) (d) which relates to unfinished documents

There is a strong public interest in withholding the information because it is incomplete and not wholly accurate whilst being revised. A public authority needs a safe space to ensure that the information that it is preparing is up to date and accurate, in particular discussions around the Revised Project Plan which is still being negotiated. Premature disclosure of incomplete (and sometimes incorrect) information has the ability to seriously mislead readers and is, therefore, not in the public interest.

#### Regulation 12 (5) (e) which relates to confidentiality of commercial or industrial information

These documents hold information of a sensitive commercial nature and disclosure could be harmful to the legitimate economic interest of both Nottinghamshire County Council and its contractor.

The WIDP Programme Office is aware that there is always a public interest in ensuring transparency in the dealings between Defra and the various participants in this project, ensuring best value for money and that the award of contracts, and other dealings, is a fair and transparent process. But there is also a strong public interest in ensuring that, for their part, those who have dealings with ourselves can do so in the assurance that confidences will be respected where there is no overriding public interest in breaching confidence.

In keeping with the spirit and effect of the EIRs, all information is assumed to be releasable to the public unless exempt. The information released to you may now be published on our website together with any related information that will provide a key to its wider context.

Annex A explains the copyright that applies to the information being released to you.

Annex B gives 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

WIDP Programme Office

[widp.programmeoffice@defra.gsi.gov.uk](mailto:widp.programmeoffice@defra.gsi.gov.uk)

## 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.

Most documents produced by Defra will be protected by Crown Copyright. Most Crown copyright information can be re-used under the [Open Government Licence](#). For information about the OGL and about re-using Crown Copyright information please see [The National Archives website](#).

Copyright in other documents may rest with a third party. For information about obtaining permission from a third party see the [Intellectual Property Office's website](#).

## 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](mailto: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