



Department  
for Environment  
Food & Rural Affairs

Email: [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
[www.defra.gov.uk](http://www.defra.gov.uk)

**BY EMAIL**

**Your ref: 713/13**  
**Our ref: RFI 6098**

**Date: 17 December 2013**

Dear,

**REQUEST FOR INFORMATION: CONFLICTS OF INTEREST**

Thank you for your request for information about conflicts of interest, which we received on 11 June. We have handled your request under the Freedom of Information Act 2000 (FOIA). You asked for information on potential conflicts of interest that have been notified to the Permanent Secretary, relating to Ministers and Special Advisers since August 2012.

You may already be aware that a List of Ministers Interests is published on the Cabinet Office website at [www.gov.uk/government/publications/list-of-ministers-interests](http://www.gov.uk/government/publications/list-of-ministers-interests).

Defra's Annual Report and Accounts 2012-13, published on the Cabinet Office website [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/224329/defra-year-end-accounts2012-13.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224329/defra-year-end-accounts2012-13.pdf) explains how conflicts, and potential conflicts, of interests of Board Members are managed (page 71). Information on senior officials and Ministers related party transactions are shown on page 172.

The exact information you requested is being withheld by virtue of section 40(2) (personal information) and section 41 of the FOIA (information provided in confidence).

Section 40(2) of the 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.



Section 41(1) of the Act is an absolute exemption and applies to information that we have obtained from any other person, and where disclosing it would constitute an actionable breach of confidence. Any information covered by your request is inherently private and provided to the Department in the strictest confidence.

The courts have recognised that there is a very strong general public interest in protecting confidences, but that a person will not succeed in an action for breach of confidence if the public interest in disclosure outweighs the public interest in keeping the confidence. So although the Act requires no explicit public interest test, we have considered whether there is an overriding public interest in disclosure in this case.

In this case, we do not consider that there are any public interest arguments strong enough to convince the Department to set aside its duty of confidence, for example if the information revealed iniquity or fraud, or if disclosure was necessary to protect the public from harm. These are among the conventional public interests that the Courts have accepted as outweighing the public interest in maintaining a confidence. In this case we do not consider that the general public interest in having information made available is a compelling public interest capable of overriding the very strong public interest in maintaining the confidentiality of this information.

We are satisfied that disclosure of the information requested would constitute an actionable breach of confidence and that the Department could not rely on the defence that there is an overriding public interest which justifies breaching this duty of confidence.

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 me.

Yours sincerely,

## **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](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