



Our ref: RFI 5528

Date: 24 June 2013

Dear

REQUEST FOR INFORMATION: OFF-PAYROLL CONTRACTS

Thank you for your request for information about off-payroll contracts, which we received on 30 May 2013. As you know, we have handled your request under the Freedom of Information Act 2000.

Following careful consideration, we have decided not to disclose some of this information.

You asked:

In connection with your off-payroll contracts please disclose under the FOIA, for the last 10 financial years:

1 - the names of individual appointees via an intermediary company and name of intermediary company; job title ; contract duration/s ; number of repeat contracts; payment amounts; N.B. Intermediary company is a PSC, a partnership, an umbrella company, an arm's length company etc.

2 - whether any of the appointees received from you (apart from the contractual remuneration for services) , any dividend , loan, asset , donation, grant , or other funding.

3 - any review, minutes or report made by you involving your off-payroll contracts.

4 - whether, since the January 2013 Government Review, any of your off-payroll contracts have ended, if so please disclose name of appointee and his company, and whether the appointee remained within your organization but is now on the payroll.

Information published by the Department pertaining to off-payroll engagement of individuals is available at: <http://data.gov.uk/dataset/tax-arrangements-data-defra>. This report reflects the outcome of the review of the tax arrangements of public sector employees announced by the Chief Secretary to the Treasury on 31 January 2012 and

lists all posts within the Defra Network (the core Department and its Arm's-Length Bodies) held by individuals engaged off-payroll as at that date.

The names of individual appointees are not included in this data. I confirm that Defra does hold this information, but we have decided that it should be withheld under section 40(2) (third party personal data) of the FOIA as the information constitutes personal data relating to third parties, and disclosure would breach the Data Protection Act 1998 (DPA). The information you requested is considered to be personal data as it forms a list of names that would make it possible to identify living individuals and their financial arrangements. Section 40(2) of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the 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; and 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 the FOIA.

No appointees have received any dividend, loan, asset, donation, grant or other funding.

To gather information on individuals employed off-payroll for the last ten financial years, and to identify which off-payroll contracts have ended since the January 2012 Government Review with appointees remaining in the organisation but moving onto the payroll, would involve a significant cost and diversion of resources from the Department's other work. Section 12(1) of the FOIA allows us to refuse a request for information if we estimate that the cost of complying with the request would exceed the appropriate limit, which currently stands at £600. On the basis of our estimates, we consider that the cost would exceed this limit and, as such, we are refusing your request. However, if you were to make a new request for a narrower category of information, it may be that we could comply with that request within the appropriate limit, although I cannot guarantee that this will be the case.

The best way we can help you is to ask you to consider narrowing down your request to focus more clearly on the precise information you are seeking. You could, for example:

- if you specified a time period in your request, consider reducing it (e.g. if you requested information on a particular topic from the last ten years, would you be content with information from the last five years?);
- browse through the material at the link above, which has already been made publicly available by Defra, to see if this would help you identify more precise questions that we might be able to answer at less cost.

Please note that if you modify your request, we will handle it as a new request and so the 20-working-day deadline for responding to requests would then commence from the date that we receive the modified request.

Further information on off-payroll contracts will be available in Defra's Annual Report and Accounts 2012/13, which will be published shortly.

In keeping with the spirit and effect of the FOIA, 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.

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.

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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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) 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