



Our ref: RFI 6077

Date: 18 December 2013

Dear [REDACTED].

REQUEST FOR INFORMATION: BADGERS SHOT BY CAGE AND CONTROLLED SHOOTING

Thank you for your request for information about the numbers of badgers shot by cage and controlled shooting which we received on 9 December. 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).

Your questions and the response are below:

How many badgers were killed by free shooting in Somerset cull zone, and how many killed by cage trapping in Somerset cull zone.

How many badgers were killed by free shooting in Gloucestershire cull zone, and how many killed by cage trapping in Gloucestershire cull zone.

This information is currently being reviewed by the members of the Independent Expert Panel as they are in the process of preparing their report. As a result, this information is being withheld under regulation 12(5)(c), relating to intellectual property rights.

The Regulation and Public Interest Test

Regulation 12(5)(c) relates to an adverse effect upon intellectual property rights. Data accumulated by Defra and its agencies is protected under the Copyright and Rights in Databases Regulations 1997 (S.I. 1997/3032). A database is defined as being a collection

of independent works, data or other materials which are arranged in a systematic or methodical way, and are individually accessible by electronic or other means. A property right exists where there has been a 'substantial investment in obtaining, verifying or presenting the costs of the database'. In this instance the data held by Defra and its agencies comprises a database and therefore they hold the property rights to this material. These rights will be adversely affected were this information to be disclosed.

Defra and its agencies holds the property rights to the wide range of data collected prior to and during the pilots as a substantial investment in time, effort and cost has been incurred in gathering information. This has included the services of external auditors to ensure data quality and rigour in its collection and analysis. A partial release of data collected during and produced following the cull would lead to inaccurate conclusions being reached which in turn would mislead anyone who views them. Data should be released in context where a complete picture is given rather than in isolation. For example, the release of numbers of badgers killed by cage trapping or controlled shooting would not take into account mitigating factors such as weather or the numbers of marksmen operating over a period of time. Partial release of the data would also lead to potential exploitation of the protected material and any infringements could go undetected or may not be preventable. Again this would lead to confusion which is counter to the principles of freedom of information.

Defra has publicly and repeatedly committed¹ on numerous occasions to announcing that the report on the culls will be published by February 2014. This report will include the suite of data from the culls. The report prepared by the 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.

As mentioned above, Defra recognises the very strong feelings and views around the badger control policy - both for and against. However, in light of the arguments 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.

In keeping with the spirit and effect of the EIRs, and in keeping with the government's Transparency Agenda, all information is assumed to be releasable to the public unless exempt. Therefore, the information released to you will now be published on www.gov.uk together with any related information that will provide a key to its wider context. Please note that this will not include your personal data.

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

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

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

Yours sincerely,

Defra TB Programme

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

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