



Department
for Environment
Food & Rural Affairs

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Our ref: RFI 5809

Date: 04 October 2013

Dear [REDACTED]

REQUEST FOR INFORMATION: REGULATION OF BAREFOOT TRIMMERS

Thank you for your request for information about regulation of the barefoot trimming industry, which we received on 16 September 2013. As you know, we have handled your request under the Freedom of Information Act 2000 (FOIA) in order that we can respond to your entire email, sent to Antony Davis of Defra's Central Correspondence Unit, as a coherent whole.

I will first reply to the first parts of your letter, which are not being dealt with specifically under the FOIA.

I am replying to you because I lead the team in Defra that has administrative responsibility for the Farriers (Registration) Act 1975 (FRA) and any associated secondary legislation; hence our relationship with the regulator of the farriery profession, the Farriers Registration Council (FRC). Defra has no authority over the FRC or its regulatory operations. The team has similar responsibility with regard to the Veterinary Surgeons Act 1966 and the Royal College of Veterinary Surgeons (RCVS).

I am aware that with your earlier correspondence with CCU you will know already some of the background. Please bear with me if I repeat some of it because I need to ensure you have the complete picture. In October 2012 representatives of the FRC met with Minister of State, David Heath. The feelings of the FRC were that the Act (FRA), under which it is established and operates, is now out-of-date and not comparable with the legislation for other regulated professions; a number of particular issues were briefly explained. The Minister was sympathetic to the position of the FRC but explained that he would be unable to secure Parliamentary time to make a bid for a new Act. However, he recognised that some change appeared necessary and said that he could support a Private Members' Bill and encourage the FRC to continue to work with Defra officials to identify those proposals



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for change that are best suited to this route. Following some preliminary work at the beginning of this year, a project was initiated in April in order to manage the preparation and progression of a bill through Parliament. This is a fairly long and detailed process; my team's experience in dealing with legislative change has shown that using Project Management methodology for delivery is the best approach.

As one of the criteria for a handout private member's bill is a restricted number of clauses, the preliminary work involved the FRC identifying which of the specific issues they had raised with the Minister they wished to pursue and develop further with the Defra policy team. In addition, Defra has been able to include the most immediate of the desired reforms in the Government's Deregulation Bill. The draft bill was published by the Cabinet Office on 1 July 2013 (CM 8642); the technical changes to the FRA are contained at Schedule 11 Part 2 to this draft Bill can be located at the following link: <http://www.official-documents.gov.uk/document/cm86/8642/8642.pdf>

Turning to two of your specific questions, you ask if the FRC Working Group and the Project Board are separate entities and if barefoot trimming organisations should be included on either or both of these groups. I can confirm that these are separate entities. The Project Board brings together the small group of people to direct the entire project and make high-level decisions regarding how it runs throughout its lifecycle with the view that it delivers to the agreed scope and quality within the agreed timescales. It does not get involved with the detailed discussion or development of the individual measures and policies, including that which you describe as the "*registration of barefoot professionals*". Therefore representation of the profession is not required on the Project Board. It is important that the FRC have representation on the Board; the project was initiated as a result of their request to the Minister and many of the measures relate only to how they can operate as a professional regulator. Therefore, in order to ensure that it has a sense of ownership and understands the process involved in legislative change, it is essential that the regulator is a partner in the project. This was found to have been very successful in recent legislative change to the Veterinary Surgeons Act 1966, bringing about some regulatory reform to the RCVS and its operations. (Specifically, this was the project which resulted in the Legislative Reform (Constitution of Veterinary Surgeons Preliminary Investigation and Disciplinary Committees) Order 2013 (SI 2013/103)). How the FRC structures itself internally to involve itself in particular pieces of work and act on behalf of the Council as a whole is not something in which Defra has either view or direct interest. We do not know the remit of the Working Group; if you believe barefoot representation is appropriate on this group then you will need to contact the FRC directly.

A major part of the production of a proposed bill is of course the policy development. As well as the Project Manager for the project, I am also the policy lead. This would not necessarily be the case on a larger bill because the two roles are very different. I have very little resource from my small team to work on this project, so it is necessary that dual roles are performed. When the Project Board was established in April it agreed the scope of the policy to be delivered by the project; seven issues grouped into five measures were agreed.

As the policy development has proceeded we, in the Defra policy team together with our specialist advisers, have found that some of the measures that we have been working-up are unsuitable for inclusion in this particular project. I submitted my reasoning to the Project Executive who then, following good practice project management, put the proposals for change in scope to the Project Board. This was done on 31 July 2013. Full agreement of the board to the reduced scope was reached on 13 September. Part of this reduction was that this particular project which is considering regulatory reform in the farriery profession is not considering regulation with respect to trimming of equine hooves.

I concur absolutely with your view that for the development of policy options input from those affected and who know the current situation is not just fair, but essential. The Government is committed to open policy making and formal consultation comes towards the end of successful engagement with interested parties, not the first stage. Defra encouraged the FRC to engage with barefoot trimming professionals in order that they could together feed into my team a range of policy options upon which Government could consult. I believe Mr House of FRC did contact some organisations but that this did not lead to a constructive working relationship.

Representation to me personally, to Defra more generally, our Ministers, the FRC and activity on social media has shown, however, that there is an interest in the area of structure of the barefoot trimming industry. Therefore, although suggesting that this topic should be removed from the project regarding reform of FRC and the farriery profession we believe that there is work to do in the area of trimming. The proposal is that the work will move to a project known as "RMPPR" which is the Review of Minor Procedures Regime.

Equine hoof trimming does differ from some - or most - of the other activities in this project insofar as the others have been considered acts of veterinary surgery (and are likely to remain so) and therefore require "exemption" from the provisions of the Veterinary Surgeons Act 1966. This should not detract from the reasons why barefoot trimming is a "good fit" within the RMPPR project. The outcome desired for that project is that we, collectively, find a modern and sustainable way of controlling certain activities regarding animals. This needs to be viewed from the point of view of the consumer (the animal owners in the cases we are looking at); how does that person make an informed decision about whether the person they are considering using is sufficiently competent? In doing so, we will protect animal welfare as well as the public interest. It is desired that the modern view that I have mentioned means less Government intervention and less strict regulation but looks instead to more self-regulation models in the first instance.

This project is divided into two basic stages. The first is evidence and issues gathering, which is currently underway. This seeks to establish the current position and understand where the issues with the current regime lie. A wide range of perspectives is sought: the animal owner, the veterinary profession, the "technicians" involved with that area of the industry, enforcers and government. The second stage will be using the information gathered and, with an understanding of the problems to be solved, to suggest a number of options for potential models that could be put in place for a new system. Once all options

have been fully worked up it is likely that it will be necessary for Government to have a public consultation in order to be able to put a final proposal to Ministers for agreement.

In terms of timescales we do not anticipate that evidence gathering, with submission of final reports to the RMPR project board, before the end of 2013. The options-finding will therefore be in 2014. In terms of this particular piece of work in relation to barefoot trimming it is envisaged that it will form its own discrete workpackage and that the small Defra team, which I head, will lead the workpackage. This is not how the other workpackages are being led; instead we have found volunteers from industry to lead those in order that a sense of ownership is established; this project is another using the principle of open and collaborative policy making. However, it is in order to build on the work that has already taken place and the relationships that have already been established that we are proposing to take a different approach with trimming.

Currently, we have not got the resource to plan and action straight away how we continue and conclude the evidence gathering stage of this workpackage. Therefore, I cannot give you any indication as to next steps or when they may take place. We are pleased, as you have noted in your letter, that those "in the barefoot world have been extremely busy organising ... into a more unified profession ...". This is what I appear to be seeing and it makes our job easier to listen to views and receive input when these are presented in an organised and coherent manner.

I now return to your request for an update on progress; with your reference to autumn I assume that you make particular reference to the proposed Government consultation on changes to the regulatory framework of the farriery profession

In order for a Department to launch a consultation that is seeking views in order to help Government come to a preferred policy position, all of Government must have come to a collective agreement with regard to that policy. This agreement is sought through the Cabinet Committee system. Some of the documents also need approval from an independent committee before they can be submitted for committee clearance. I am sure you can appreciate that this all takes quite some time, often several months, and longer when the House of Commons is in recess. We are at the early stage of this clearance process. Until it is concluded I cannot say what measures will be included in the consultation, precisely when it will run or even if it will take place at all. Those decisions are for Defra Ministers and the rest of Government to make. However, to reiterate, that we have no plans to include in this consultation any proposals which relate to regulation of work on the unshod equine.

Consultation responses will be analysed and from this a final policy decision made. If legislative change is needed, this will be put to the Minister for decision and, if he wishes to proceed, to the rest of Government for agreement to introduce to Parliament. Only Parliament can make changes to the Farriers (Registration) Act 1975.

I now turn to your final two requests, which are being dealt with in accordance with FOIA:

- minutes of the meeting held on 31 July 2013, and
- any notes/ minutes, correspondence or written information which the department holds pertaining to proposals and discussion around the regulation/ registration of barefoot trimmers.

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

I enclose a copy of the information which can be disclosed: the minutes of the Project Board which took place on 31 July 2013. You will see that we have redacted some of the information held within this document.

That information is being withheld as it falls under the exemption in section 35 of the FOIA, which relates to the formulation or development of government policy, ministerial communications, and provision of advice by any of the Law Officers and the operation of private offices.

The exemption in section 35 of the FOIA, in this instance relates to the formulation or development of government policy. In applying this exemption we have had to balance the public interest in withholding the information against the public interest in disclosure

We believe that there is a powerful public interest in withholding the information redacted in the minutes of the 31 July meeting because these sections either:

- discuss policy options and delivery unrelated to the area in which you have interest and where it is unlikely Government will wish to intervene; or
- where we need to ensure that there is a space within which ministers and officials are able to discuss policy options and delivery freely and frankly.

After consideration we are of the view that the other piece of information which you requested - any notes/ minutes, correspondence or written information which the department holds pertaining to proposals and discussion around the regulation/ registration of barefoot trimmers – should also be withheld as it falls under the exemption in section 35 of the FOIA.

We believe that there is a powerful public interest in withholding this information because, again, we need to ensure that there is a space within which ministers and officials are able to discuss policy options and delivery freely and frankly. We also consider that disclosure of these papers at the earliest stage of policy formulation would present a misleading view of proposals that may be presented at a later stage of development, such as a public consultation. In order to properly understand the situation and develop proposals we need to engage with a variety of interested parties and this means that there is a wide range of views and opinions to be heard. The RMPR project, where interest in trimming will now be dealt with, is in just its first stage of gathering any evidence of the need and desire for change. We are not at the stage of formulating options about what the future should look

like. However, at both stages - where we wish to understand all the issues legitimately held from a wide range of groups/ individuals and where we want innovative solutions to how to deal with those issues - we need all stakeholders in the project to feel that they can input freely. Disclosure of information at too early a stage could destroy any open policy making process across the whole project if any stakeholders became reluctant to bring forward views and ideas.

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

Yours



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Annex A

Copyright

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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
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SK9 5AF

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RESEARCH INTERESTS
Inorganic Chemistry
Organometallic Chemistry
Bioinorganic Chemistry
Solid State Chemistry

For more information, contact:
Dr. [Name], [Address], [City], [State], [Zip]

APPLY TO:
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