



Department
for Environment
Food & Rural Affairs

helpline@defra.gsi.gov.uk
www.defra.gov.uk

[REDACTED]
[REDACTED]

Our ref: RFI 5641
Date: 30 August 2013

Dear [REDACTED]

REQUEST FOR INFORMATION: Marksmen Training

Thank you for your request for information about marksmen training which we received on 3 June. You asked for schemes of work, lesson plans, references and all related course documentation pertaining to marksmen training and fitness for role as submitted by the two companies carrying out the badger cull pilots in Gloucestershire and Somerset. 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).

We would like to apologise for the failure in responding to your initial request made on 3 June. Routine administrative processes broke down in this instance and we will take steps to ensure that a similar problem is avoided in the future.

Marksmen's training was not undertaken by the culling companies, but by another party. Two organisations applied for approval to undertake training of marksmen, one of which was successful in their application and as a result proceeded to deliver this training. I would like to clarify that Defra approved the provider's application to provide training courses. In approving a provider, Defra also contributed to the development of training materials. As a result Defra does hold certain training materials, having had sight of drafts of these materials during their development. I was required to consult with the party before the release of the information which they had supplied to Defra. They asked for time to consider this request which necessitated the extension to the response deadline and hence the delay in replying to you.

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



INVESTORS
IN PEOPLE

The information requested is being withheld as it falls under the exceptions in the following regulations: 12(4)(a), 12(4)(d), 12(5)(a), and 12(5)(e) of the EIRs: documents not held, 12(4)(a); unfinished documents (12(4)(d)); international relations, defence, national security or public safety (12(5)(a)), and the confidentiality of commercial or industrial information (12(5)(e)).

12(4)(a)

Certain items that you asked for i.e. schemes of work, lesson plans and references are not held by Defra. The information is therefore exempt under regulation 12(4)(a) of the EIRs, which relates to information which is not held at the time when an applicant's request is received. Regulation 12(4)(a) is a qualified exception, which usually means that a public authority is required to conduct a public interest test to determine whether or not information should be disclosed or withheld. However, the Information Commissioner, who is the independent regulator for requests made under the EIRs, takes the view that a public interest test in cases where the information is not held would serve no useful purpose. Therefore, in line with the Information Commissioner's view, Defra has not conducted a public interest test in this case.

12(4)(d)

The draft documentation provided to Defra as part of the tender process gave indicative/outline information, before training material was developed, with input from Defra and Natural England, and before being finalised by the training provider. The material provided at this stage was therefore unfinished and unrepresentative of the final training package.

12(5)(a)

The training documents contain significant detail as to how field operations will be carried out and release of this information would endanger the safety of the individuals involved in operations or members of the public, for example by facilitating acts of sabotage or interference with operations.

12(5)(e)

The training documents have commercial value as they contain the structure and content of the commercially developed contractor training course. Disclosure of the documents would permit others to duplicate the training materials, damaging the third party's commercial interests. Bearing in mind the nature of this information, i.e. a package of training material for onward communication, the commercial value of it to the third party, or a competitor, is clear.

Public Interest Test

In applying these exceptions we have had to balance the public interest in withholding the information against the public interest in disclosure.

We recognise that there is a public interest in disclosure of information regarding training courses for marksmen as there is a public interest in transparency and accountability in controversial policy areas.

On the other hand, there is a strong public interest in withholding the information. The culling of badgers is a sensitive issue and we believe that the placing in the public domain of details relating to marksmen training and field operations would have a serious impact on the protection of individuals, businesses or public or private property. Disclosure of this information would not be in the public interest, because it is never in the public interest to endanger the safety of individuals. The release of the draft materials would not meet your purpose of comparing training material against documents supplied by Natural England as the drafts are incomplete and differ in structure and content to the finalised version used for training marksmen. The document was not produced by Defra and it is not within Defra's remit to check through the document and clarify where text was subsequently amended. We also have to take into account the commercial sensitivities surrounding the release of the training materials. The material was forwarded to Defra in confidence and disclosure would affect this confidentiality. The training provider has a legitimate economic interest in the material and it is not for Government to undermine the commercial viability of a third party.

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 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 sincerely,

Defra TB Programme

Email: ccu.correspondence@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:

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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