



Department
for Environment
Food & Rural Affairs

Nobel House
17 Smith Square
London SW1P 3JR

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

Your ref:
Our ref: RFI 6057
Date: 03 January 2014

Dear

**REQUEST FOR INFORMATION: NORFOLK COUNTY COUNCIL WASTE
INFRASTRUCTURE PROJECT**

Thank you for narrowing your previous request to us (ref RFI 6019) which is reproduced below:

“Under the provisions of the Freedom of Information Act 2000 and/or the Environmental Information Regulations, please provide copies of any correspondence and details of any meetings between Defra and any third parties in relation to the County Council’s waste infrastructure project sent/held between 1 June 2013 and the date of this request.

The information we are seeking is:-

- letters
- emails
- advice
- notes
- dates of any meetings held and who attended
- minutes
- diary notes

We are not seeking any copies of any correspondence or details of any meetings between Defra and:-

- Norfolk County Council
- Norfolk MPs (as this is already the subject of a separate request - RFI 6018)

In the event that the volumes of correspondence mean that you are unable to process this request within 18 hours, then please narrow down our request to include the following third parties only:-

- Any of the district councils in Norfolk;
- Other government departments, No 10 and the Policy Unit;
- Others considered by Defra to be key stakeholders.”

As you know, we have considered 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).

Following careful consideration, we have decided to disclose some of the information that falls within the scope of the request. I can confirm that there were meetings between Defra officials and officials of other Government Departments in the period in question. I would like to point out that in the normal course of Defra's work, and as part of our ongoing relationship with other Government Departments, meetings – including telephone conversations – at an official level are very common and held on a regular basis. These discuss a number of issues in the waste sector, which will have included the Norfolk County Council waste infrastructure project on some occasions. We do not hold agendas and notes/minutes of these meetings. The outcomes of the meetings and follow up actions are usually captured in email correspondence between the relevant officials. There are therefore no additional diary notes kept beyond the email record.

Specifically, the following meetings took place:

- 4 June – meeting between Defra officials and officials from the Department for Energy & Climate Change (attendees were below Senior Civil Service grades);
- 6 June – meeting between Defra officials and officials from HM Treasury (Nigel Atkinson, WIDP Programme Director was the lead Defra official and Jo Fox was the lead HM Treasury official, other attendees were below Senior Civil Service grades).

The other officials who attended the meeting are not in Senior Civil Service (SCS) grades and we consider that their names are personal data covered by exceptions in regulations 12(3) and 13(1) of the EIRs. Email exchanges between Defra officials and officials of other Government Departments constitute internal communications, and are therefore being withheld under exception 12(4)(e) of the EIRs.

There were no meetings with No 10 officials, the Policy Unit or officers from the district councils in Norfolk. Therefore the information is not held.

PUBLIC INTEREST TEST

You will have noticed that we have not provided certain data under the following exceptions allowed by the EIRs:

Regulation 12(4)(e)- Internal communications

This covers communications between civil servants (both Defra and other Government Departments). In accordance with the EIRs, we have had to consider carefully the fact that this information, if released, will have to be put in the public domain (and published on the Government website).

We recognise that there is a strong public interest in disclosure as it would inform the public of internal discussions and the process by which decisions are made in Government. This is a high profile area, and it is important that the Department is transparent in the decisions taken, particularly where these decisions affect funding for local waste infrastructure projects. For this reason we have provided a reasonable amount of the information on our website.

On the other hand, there is a strong public interest in the need to provide a safe space where officials are free to consider all views and ask what are at times uncomfortable

questions with no repercussions should that approach not be adopted. This retains the impartiality of the civil service, which might be undermined if advice was routinely made public as there is a risk that officials could come under political pressure not to challenge ideas in the formulation of policy, thus leading to poorer decision making, which would not be in the public interest. It is for this reason that internal communications are not routinely published or released, and is particularly important in relation to waste, where the decisions made affect the funding of waste infrastructure projects, and where the decisions made are often unpopular ones.

Therefore, we have concluded that, in all the circumstances of the case, that the information should be withheld as the public interest in maintaining the exception outweighs the public interest in disclosure.

Regulations 12(3) and 13(1) – withholding personal data relating to third parties

Personal data is being withheld as the information falls under the exception in regulations 12(3) and 13(1) of the EIRs, which relate to personal data relating to third parties. Regulation 13(1) of the EIRs exempts from disclosure personal data relating to third parties where disclosure would breach the Data Protection Act 1998 (DPA). In this case, we believe that disclosure of the information would breach the first data protection principle in Schedule 1 of the DPA 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 of the DPA. In particular we do not consider that there is a legitimate interest in disclosure in this case. Release of names of junior officials (or contact details of any officials) would add nothing to the public's understanding of this matter, and although there is a legitimate interest in disclosure as it would serve to promote even greater transparency and accountability, this interest has been met through the disclosure of the information provided. Consequently, we believe that regulations 12(3) and 13(1) of the EIRs exempt the information from disclosure and therefore we have concluded that, in all the circumstances stated above, the information should be withheld.

Regulation 12(4)(a) – information not held

The information which is not held is exempt under regulation 12(4)(a) of the EIRs. 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.

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 the WIDP Programme Office at the email address below.

Yours sincerely

WIDP Programme Office

Email: widp.programmeoffice@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