



Department
for Environment
Food & Rural Affairs

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Your ref:
Our ref: RFI 5888
Date: 31 October 2013

Dear,

REQUEST FOR INFORMATION: BUSINESS APPOINTMENT RULES

Thank you for your request for information about Business Appointment Rules, which we received on 6 October 2013. As you know we have handled your request under the Freedom of Information Act 2000 (FOIA).

You asked:

“This is a request under the Freedom of Information Act. I am writing in relation to the Business Appointment rules. Please disclose the following information.

1. Please confirm what data and/or information you hold on post employment applications and decisions thereon in relation to a. Ministers, b. Special Advisors, c. Rank SCS3, d. Rank SCS2 and below.
2. Please supply copies of any summary or other data held on applications and responses to them in relation to SCS2 and below. The kind of data I am looking for might include but may not be limited to numbers of applications and responses; refusals; kinds of applications from various ranks; destinations sectors or posts etc. I would prefer this information in an accessible data format such as in a spreadsheet or as a CSV file.
3. According to the guidelines issued by ACOBA:
 - For cases at SCS2, the Permanent Secretary’s written recommendation to the applicant setting out the decision on the case must be copied to the Advisory Committee’s Secretariat at the same time.
 - Where a Department recommends a waiting period, or conditions, the applicant should be given the opportunity to discuss the application with an appropriate departmental officer and make any representations to them before the final decision is reached.

Accordingly please send me copies of the information contained in each application and the written recommendation in response for all of the cases at SCS2 and below dealt with by your department.



This request refers to the current year to date and to previous years. Please send me the material from the current year first and then turn to each preceding year in turn until the year 2005 or until cost limits are reached, assuming the data is held.

I would prefer to receive information in digital format where possible.”

The information you requested is as follows:

The Advisory Committee on Business Appointments (ACOBA) publishes its final advice on appointments of former Ministers, SCS3 and above Crown servants and special advisers once their appointments have been taken up or announced. Consolidated records of these cases are published in ACOBA's reports which can be accessed from their website.

The department processes applications submitted for SCS 2 and below under the business appointment rules that cover the Civil Service.

I have attached a pdf file with details of applications for SCS 2 and below made since 2011. We do not keep a record if the applicant does not subsequently take up the business appointment.

Following a search of our paper and electronic records, I have established that the information before 2011 is not held centrally and cannot be easily located. The information that you have requested would exceed the appropriate limit, which, for central government, has been set at £600. Therefore, under section 12 of the FOIA, Defra is not obliged to comply with this part of your request and we will not be processing it further. 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.

We have decided that the copies of material that Defra holds in the form of paper and electronic records including application forms and emails relating to business appointments should be withheld under section 40(2) (third party personal data) of the FOIA, as the information, i.e. the personal employment details made between Defra and the applicants prospective new employer, constitutes personal data relating to third parties. Section 40(2) of the FOIA provides that personal data relating to third parties is exempt information if disclosure would breach the Data Protection Act 1998 (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.

In keeping with the spirit and effect of the FOIA, all information is assumed to be releasable to the public unless exempt. Therefore, 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.

Yours sincerely,

Direct Line
Email

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 or logos) 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